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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1087; Directorate Identifier 2011–NM–032–AD; Amendment 39–16967; AD 2012–04–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding two existing airworthiness directives (AD). One existing AD is for Airbus Model A319, A320, and A321 series airplanes without Airbus modification 26017. That AD currently requires replacing the flight warning computers (FWCs). The other existing AD is for Airbus Model A320 and A321 series airplanes on which Airbus modification 24612 or Airbus Service Bulletin A320–31–1080 has not been accomplished. That existing AD currently requires revising the limitations section of the airplane flight manual. This new AD requires replacing both FWC units with certain FWC units. This AD was prompted by in-service events of thrust lever mismanagement and a manufacturer analysis on the failure to follow procedure or heed existing cockpit cues. The analysis of the thrust lever management issue showed two categories of scenarios that could lead to thrust asymmetry during landing, with controllability and deceleration consequences. We are issuing this AD to prevent thrust asymmetry conditions which could result in loss of control of the airplane during landing.

DATES: This AD becomes effective April 17, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 17, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 24, 2002 (67 FR 35425, May 20, 2002).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 19, 2011 (76 FR 64854), and proposed to supersede AD 97–22–13, Amendment 39–10185 (62 FR 58891, October 31, 1997); and AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Following in-service experience, analyses of the failure to follow procedure or heed existing cockpit cues were conducted to assess the consequences of mismanagement of thrust levers during landing.
>
> The investigation results identified the need for improvements in the identification of throttle mis-positioning and so providing further opportunity for the flight crew to identify an incorrect thrust lever configuration and to correct this. For the A320 family of aeroplanes this being IDLE or REVERSE, which is necessary to enable ground spoiler (G/S) extension and auto-brake (A/BRK) functions. In addition, the analysis of the thrust lever management issue shows two categories of scenarios that could lead to thrust asymmetry during landing with controllability and deceleration consequences:
>
> —One thrust lever kept in forward thrust when the other is put in IDLE or REVERSE. This has been seen in cases of dispatch with one thrust reverser inoperative; and
>
> —One thrust lever moved in forward position after landing, usually when bringing the thrust lever back from REVERSE to IDLE.
>
> These thrust asymmetry conditions, if not corrected, could result in loss of control of the aeroplane during landing.
>
> This [EASA] AD supersedes DGAC France AD 94–211–059(B) R2 and 96–079–079(B) [which corresponds to FAA AD 97–22–13 (62 FR 58891, October 31, 1997], mandating Aircraft Flight Manual Temporary Revision reference 9.99.99/20 and the installation of FWC P/N 350E017248685 (H1D2) as terminating action for both ADs.
>
> This [EASA] AD retains the requirements of DGAC France AD 2000–320–147(B) [which corresponds to FAA AD 2002–10–06 (67 FR 35425, May 20, 2002)], which is also superseded, which required the installation of FWC P/N 350E017271616 (H1E2).
>
> For the reasons described above, this [EASA] AD requires the replacement of both FWC units with minimum FWC P/N 350E053020909 (H2F5) units, introducing ''Enhanced RETARD'' logic.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The commenter supports the NPRM (76 FR 64854, October 19, 2011).

Explanation of Changes Made to This AD

We have redesignated paragraph (g) and Note 1 of the NPRM (76 FR 64854, October 19, 2011) to paragraphs (g)(1) and (g)(2) in this AD, respectively. We have revised certain headings throughout this AD. We have also revised the wording in paragraphs (g)(2) and (j) of this AD; this change has not changed the intent of those paragraphs.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 64854, October 19, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 64854, October 19, 2011).

Costs of Compliance

We estimate that this AD will affect about 729 products of U.S. registry. The actions that are required by AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002) and retained in this AD take about 7 work-hours per product, at an average labor rate of $85 per work hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, the estimated cost of the currently required actions is $595 per product.

We estimate that it would take about 4 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $247,860, or $340 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (76 FR 64857, October 19, 2011), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing AD 97–22–13, Amendment 39–10185 (62 FR 58891, October 31, 1997); and AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002); and adding the following new AD:

2012–04–11 Airbus: Amendment 39–16967. Docket No. FAA–2011–1087; Directorate Identifier 2011–NM–032–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 17, 2012.

(b) Affected ADs

This AD supersedes AD 97–22–13, Amendment 39–10185 (62 FR 58891, October 31, 1997); and AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002).

(c) Applicability

This AD applies to Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all serial numbers; if equipped with a flight warning computer (FWC) with a part number (P/N) listed in table 1 of this AD.

TABLE 1—LIST OF FWC PART NUMBERS AFFECTED BY THIS AD

FWC Part No.
350E≤017238484 (H1D1)
350E≤016187171 (C5)
350E≤017248685 (H1D2)
350E≤017251414 (H1E1)
350E≤017271616 (H1E2)
350E≤018291818 (H1E3CJ)
350E≤018301919 (H1E3P)
350E≤018312020 (H1E3Q)
350E≤053020202 (H2E2)
350E≤053020303 (H2E3)
350E≤053020404 (H2E4)
350E≤053020606 (H2F2)
350E≤053020707 (H2F3)
350E≤053021010 (H2F3P)
350E≤053020808 (H2F4)

(d) Subject

Air Transport Association (ATA) of America Code 31: Indicating and Recording Systems.

(e) Reason

This AD was prompted by in-service events of thrust lever mismanagement and a manufacturer analysis on the failure to follow procedure or heed existing cockpit cues. The analysis of the thrust lever management issue showed two categories of scenarios that could lead to thrust asymmetry during landing, with controllability and deceleration consequences. We are issuing this AD to prevent thrust asymmetry conditions which could result in loss of control of the airplane during landing.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Restatement of Requirements of AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002): Modification

(1) For Model A319, A320, and A321 series airplanes without Airbus modification 26017: Within 18 months after June 24, 2002 (the effective date of AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002)), replace the flight warning computers (FWCs) in accordance with Airbus Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999; or Airbus Mandatory Service Bulletin A320–31–1106, Revision 05, dated September 21, 2000.

(2) This paragraph provides credit for replacement of the FWCs required by

paragraph (g)(1) of this AD, if the replacement was done before June 24, 2002 (the effective date of AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002)), using Airbus Service Bulletin A320–31–1106, dated January 3, 1997; Revision 01, dated April 16, 1997; Revision 02, dated January 20, 1998; or Revision 03, dated July 9, 1999.

(h) Restatement of Requirements of AD 2002–10–06, Amendment 39–12752 (67 FR 35425, May 20, 2002): Optional Method of Compliance

Installation of a FWC standard in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–31–1141, Revision 04, dated February 14, 2002, is an acceptable method of compliance with the replacement required by paragraph (g) of this AD.

(i) New Requirements of This AD: Flight Warning Computer Replacement

Within 48 months after the effective date of this AD: Replace both FWC units with FWC part number 350E053020909, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–31–1334, Revision 04, including Appendix 01, dated September 12, 2011.

(j) Credit for Previous Actions

(1) For all airplanes, except for Model A319 series airplanes on which modifications 28238, 28162, and 28342 have been incorporated: This paragraph provides credit for replacing both FWCs, as required by paragraph (i) of this AD, if the replacements were performed before the effective date of this AD using Airbus Service Bulletin A320–31–1334, dated July 30, 2009; Revision 01, dated December 14, 2009; Revision 02, dated September 13, 2010; or Revision 03, dated March 15, 2011.

(2) This paragraph provides credit for replacing both FWCs in lieu of the installation specified in paragraph (h) of this AD, if the replacements were performed before the effective date of this AD using Airbus Service Bulletin A320–31–1141, dated March 6, 2000; Revision 01, dated May 25, 2000; Revision 02, dated January 22, 2001; or Revision 03, dated June 12, 2001.

(k) Parts Installation

As of the effective date of this AD, and after accomplishing the actions in paragraph (i) of this AD, no person may install a FWC with a part number listed in table 1 of this AD on any airplane.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2141; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(m) Related Information

Refer to MCAI EASA Airworthiness Directive 2011–0001, dated January 10, 2011; Airbus Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999; Airbus Mandatory Service Bulletin A320–31–1106, Revision 05, dated September 21, 2000; Airbus Service Bulletin A320–31–1141, Revision 04, dated February 14, 2002; and Airbus Mandatory Service Bulletin A320–31–1334, Revision 04, including Appendix 01, dated September 12, 2011; for related information.

(n) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51 on the date specified.

(2) The following service information was approved for IBR on April 17, 2012.

(i) Airbus Mandatory Service Bulletin A320–31–1106, Revision 05, dated September 21, 2000.

(ii) Airbus Service Bulletin A320–31–1141, Revision 04, dated February 14, 2002.

(iii) Airbus Mandatory Service Bulletin A320–31–1334, Revision 04, including Appendix 01, dated September 12, 2011.

(3) The following service information was approved for IBR on IBR June 24, 2002 (67 FR 35425, May 20, 2002).

(i) Airbus Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999.

(4) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

(5) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on January 24, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–5859 Filed 3–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0318; Directorate Identifier 2010–CE–033–AD; Amendment 39–16966; AD 2012–04–10]

RIN 2120–AA64

Airworthiness Directives; Burl A. Rogers (Type Certificate Previously Held by William Brad Mitchell and Aeronca, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Burl A. Rogers (type certificate previously held by William Brad Mitchell and Aeronca, Inc.) Models 15AC and S15AC airplanes. This AD was prompted by reports of intergranular exfoliation and corrosion of the upper and/or lower wing main spar cap angles found on the affected airplanes. This AD requires repetitive inspections of the upper and lower main wing spar cap angles for cracks and/or corrosion and installing inspection access panels. This AD also requires replacing the wing spar cap angles if moderate or severe corrosion is found and applying corrosion inhibitor. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective April 17, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 17, 2012.

ADDRESSES: For service information identified in this AD, contact Burl's Aircraft, LLC, P.O. Box 671487, Chugiak, Alaska 99567–1487; phone: (907) 688–3715; fax (907) 688–5031; email *burl@biginalaska.com*; Internet: *http://www.burlac.com*. You may review copies of the referenced service information at the FAA, Small Airplane

Directorate, 901 Locust, Room 301, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: August Asay, Supervisory Aerospace Engineer, FAA, Anchorage Aircraft Certification Office, 222 W. 7th Ave., #14, Anchorage, Alaska 99513; telephone: (907) 271–2668; fax: (907) 271–6365; email: *august.asay@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on April 4, 2011 (76 FR 18454). That NPRM proposed to require repetitive inspections of the upper and lower main wing spar cap angles for cracks and/or corrosion and installing inspection access panels. That NPRM also proposed to require replacing the wing spar cap angles if moderate or severe corrosion is found and applying corrosion inhibitor.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (76 FR 18454, April 4, 2011) and the FAA's response to each comment.

Request To Extend Comment Period

The Experimental Aircraft Association (EAA), John Poulter, Andrew Cooper Crow, Eric Sandberg, Rodney David Pollard, Kyle W. Boatright, and 10 other commenters requested an extension of the comment period.

The commenters stated that additional time was needed to receive all of the data requested through the Freedom of Information Act and to prepare a request for an alternative method of compliance (AMOC).

We do not agree to extend the comment period again. We issued the proposed AD (76 FR 18454, April 4, 2011) with a 45-day open comment period. Due to several public comments received at that time requesting an extension of the comment period to facilitate fact finding/information gathering, we issued an extension of the comment period (76 FR 23920, April 29, 2011) that extended the comment period for an additional 45 days. Even though we did not extend the comment period any further, we have accepted all comments to the docket that were received after the comment close date.

We have determined it is in the best interest of the public to go forward with this AD to address the unsafe condition on these airplanes. The public may always propose AMOCs to show compliance to the requirements cited in the AD. We will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

We made no change to the AD based on this comment.

Request To Use Different Inspection Method

John Poulter, Kyle W. Boatright, Douglas T. Rounds, Frank Charles, Gerald Wayne Cox, John Landers, Ron Craig Cooper, and four other commenters requested approval to use the borescope inspection method.

The commenters stated that using a borescope when inspecting the main spar cap angles on the wings for corrosion would save time and the expense of installing access covers in the wings.

We agree that a borescope inspection could provide an acceptable level of safety for doing the required inspection; however, we disagree with approving it for this AD because we do not have written detailed guidance for doing a borescope inspection that we can refer to in this AD at this time.

The public may always propose AMOCs to show compliance to the requirements cited in the AD. We will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

We made no change to the AD based on this comment.

Request To Change the Costs of Compliance Section

An anonymous commenter stated that the Costs of Compliance section should be re-evaluated.

The commenter stated that the estimated cost information in the proposed AD (76 FR 18454, April 4, 2011) is misleading since some of the information is presented per wing instead of per airplane. The commenter also stated that the estimated cost of replacing the main spar cap on both wings could exceed the value of the airplane, and the estimated cost to inspect and install inspection panels could easily amount to 10 to 25 percent of the value of the airplane.

The commenter stated that there are less costly, yet as effective, options to comply with the AD, and we should include those costs in the AD.

We do not agree with the commenter. We determined that the estimated costs stated in the proposed AD (76 FR 18454, April 4, 2011) represent the most accurate estimate we can make at this time. Total fleet repair costs were not calculated because we have no way of determining the number of wings that will be found to be corroded and/or cracked that will need to be replaced.

The public may always propose AMOCs to show compliance to the requirements cited in the AD. The FAA will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

We made no change to the AD based on this comment.

Request To Incorporate Revised Service Information

Burl's Aircraft, LLC issued additional installation instructions for installing the 2–1272 reinforcement doubler and the 2–1285 inspection cover assemblies. We infer that Burl's Aircraft, LLC wants the FAA to include the installation instructions into the final rule AD action.

We agree. We have revised the final rule AD action to incorporate using the installation instructions.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (76 FR 18454, April 4, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 18454, April 4, 2011).

We also determined that these changes will not increase the economic

burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 255 airplanes in the U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Initial inspection	10 work-hours × $85 per hour = $850	Not applicable	$850	$216,750
Installation of inspection access panels and inspection.	30 work-hours × $85 per hour = $2,550	$630	3,180	810,900

We estimate the following costs to do any necessary replacements that will be required based on the results of the inspections. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product per wing
Replacement of main spar cap	80 work-hours × $85 per hour = $6,800 per wing	$1,200 per wing	$8,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2012–04–10 Burl A. Rogers (Type Certificate Previously Held by William Brad Mitchell and Aeronca, Inc.)

Models 15AC and S15AC Airplanes: Amendment 39–16966; Docket No. FAA–2011–0318; Directorate Identifier 2010–CE–033–AD.

(a) Effective Date

This AD is effective April 17, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Burl A. Rogers (type certificate previously held by William Brad Mitchell and Aeronca, Inc.) Model 15AC and S15AC airplanes, all serial numbers, that are certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of intergranular exfoliation and corrosion of the upper and/or lower wing main spar cap angles found on the affected airplanes. We are issuing this AD to detect and correct cracks and corrosion in the wing main spar cap angles, which could result in reduced strength of the wing spar and the load carrying capacity of the wing. This could lead to wing failure and consequent loss of control.

(f) Actions, Compliance, and Procedures

Comply with this AD within the compliance times specified, unless already done (does not eliminate the repetitive actions of this AD).

What must be done?	When must it be done?	How must it be done?
(1) Inspect the exposed trailing edges of both the upper and lower main spar cap angles on both the left and right wing for signs of cracks, intergranular exfoliation, and corrosion.	(i) Within the next 25 hours time-in-service (TIS) after April 17, 2012 (the effective date of this AD) or within the next 6 months after April 17, 2012 (the effective date of this AD), whichever occurs first; or (ii) *If the left and/or right wing have been repaired and both the upper and lower main spar caps have been replaced using new parts:* Inspect at or before the next annual inspection that occurs 10 years after the replacement or within the next 100 hours TIS after April 17, 2012 (the effective date of this AD), whichever occurs later. This compliance time applies separately to each wing.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011; and FAA Advisory Circular (AC) 43.13–1B, Change 1, Chapter 6. AC 43.13–1B can be found at *http://rgl.faa.gov/.*
(2) After completing the inspection required in paragraph (f)(1) of this AD, install new inspection hole skin reinforcement doublers and the associated screw cover plate in both the left and right wing.	(i) Within 12 months after April 17, 2012 (the effective date of this AD); or (ii) *If the left and/or right wing have been repaired and both the upper and lower main spar caps have been replaced using new parts:* At or before the next annual inspection that occurs 10 years after the replacement or within the next 100 hours TIS after April 17, 2012 (the effective date of this AD), whichever occurs later. This compliance time applies separately to each wing.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010, which includes Burl's Aircraft, LLC Drawing No. SB 15AC06–08–10 (not dated); Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011, which references Burl's Aircraft, LLC Installation Instruction No. SB 15AC06–08–10, dated September 9, 2011, Burl's Aircraft, LLC Sketch No. SB 15AC06–08–10, dated September 9, 2011, and Burl's Aircraft, LLC Drawing No. 2–1272 Splice, dated September 6, 2011; and FAA Advisory Circular (AC) 43.13–1B, Change 1, Chapter 6. AC 43.13–1B can be found at *http://rgl.faa.gov/.*
(3) After completing the inspection required in paragraph (f)(1) of this AD and installing the new inspection hole skin reinforcement doublers in the left and right wing as required in paragraph (f)(2) of this AD, through the inspection access panels, inspect the leading and trailing edges of both the upper and lower main spar cap angles on both the left and right wing for signs of cracks, intergranular exfoliation and corrosion.	Before further flight after installing the inspection hole skin reinforcement doublers as required in paragraph (f)(2) of this AD.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011.
(4) Remove any light corrosion found during the inspection required in paragraph (f)(3) of this AD and treat the entirety of both the upper and lower main spar cap angles on both the left and right wing with corrosion inhibitor.	Before further flight after the inspection required in paragraph (f)(3) of this AD.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011.
(5) If cracks, intergranular exfoliation, or moderate or severe corrosion is found during the inspection required in paragraphs (f)(1) or (f)(3) of this AD, replace the affected main spar cap angles in their entirety as a single piece. Splicing of the main spar cap angles is not permitted.	Before further flight after the inspection required in paragraphs (f)(1) and (f)(3) of this AD.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011; and contact Burl's Aircraft, LLC in paragraph (i) of this AD for a replacement scheme and incorporate the replacement scheme.

What must be done?	When must it be done?	How must it be done?
(6) Removing the wing inspection access panels, repetitively inspect both the upper and lower forward main spar caps on both the left and right wing for signs of cracks, intergranular exfoliation, and corrosion.	Repetitively thereafter at intervals not to exceed every 12 months after the inspection required in paragraph (f)(3) of this AD.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011; and FAA Advisory Circular (AC) 43.13–1B, Change 1, Chapter 6. AC 43.13–1B can be found at *http://rgl.faa.gov/.*
(7) After each inspection required in paragraph (f)(6) of this AD, if only light corrosion is found, remove the corrosion and treat the main spar cap angles with corrosion inhibitor.	Before further flight after each inspection required in paragraph (f)(6) of this AD. Continue with the repetitive inspections required in paragraph (f)(6) of this AD.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011; and FAA Advisory Circular (AC) 43.13–1B, Change 1, Chapter 6. AC 43.13–1B can be found at *http://rgl.faa.gov/.* Contact Burl's Aircraft, LLC in paragraph (i) of this AD for a replacement scheme and incorporate the replacement scheme.
(8) After each inspection required in paragraph (f)(6) of this AD, if cracks, intergranular exfoliation, or moderate or severe corrosion is found, replace the affected main spar cap angles in their entirety as a single piece. Splicing of the main spar cap angles is not permitted.	Before further flight after each inspection required in paragraph (f)(6) of this AD. Continue with the repetitive inspections required in paragraph (f)(6) of this AD.	Follow Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010; Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010; or Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011; and FAA Advisory Circular (AC) 43.13–1B, Change 1, Chapter 6. AC 43.13–1B can be found at *http://rgl.faa.gov/.* Contact Burl's Aircraft, LLC in paragraph (i) of this AD for a replacement scheme and incorporate the replacement scheme.
(9) Only install main spar cap angles that have been inspected and are free of cracks, intergranular exfoliation, or moderate or severe corrosion.	As of April 17, 2012 (the effective date of this AD).	Not applicable.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Anchorage Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(h) Related Information

For more information about this AD, contact August Asay, Supervisory Aerospace Engineer, FAA, Anchorage ACO, 222 W. 7th Ave., #14, Anchorage, Alaska 99513; telephone: (907) 271–2668; fax: (907) 271–6365; email: *august.asay@faa.gov*.

(i) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51.

(i) Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, dated June 8, 2010;

(ii) Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment A, dated June 23, 2010;

(iii) Burl's Aircraft, LLC Mandatory Service Bulletin No. 15AC06–08–10, Amendment B, dated June 23, 2010, Rev. Original, September 15, 2011;

(iv) Burl's Aircraft, LLC Installation Instruction No. SB 15AC06–08–10, dated September 9, 2011;

(v) Burl's Aircraft, LLC Drawing No. SB 15AC06–08–10 (not dated);

(vi) Burl's Aircraft, LLC Sketch No. SB 15AC06–08–10, dated September 9, 2011; and

(vii) Burl's Aircraft, LLC Drawing No. 2–1272 Splice, dated September 6, 2011; and

(2) For service information identified in this AD, contact Burl's Aircraft, LLC, P.O. Box 671487, Chugiak, Alaska 99567–1487; telephone: (907) 688–3715; fax (907) 688–5031; email *burl@biginalaska.com;* Internet: *http://www.burlac.com.*

(3) You may review copies of the service information at the FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on February 21, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–5864 Filed 3–12–12; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

[Notice: (12–022)]

RIN 2700–AD63

Claims for Patent and Copyright Infringement

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The following are National Aeronautics and Space Administration (NASA) regulations relating to requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing privately owned rights in patented inventions or copyrighted works. The requirements for filing an administrative claim are important since the filing of a claim carries with it certain rights relating to the applicable statute of limitations for filing suit against the Government. The regulations set forth guidelines as to what NASA considers necessary to file a claim for patent or copyright infringement, and they also provide for written notification to the claimant upon completion of an investigation by NASA.

DATES: This rule is effective on March 13, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Helen M. Galus, National Aeronautics and Space Administration, Office of the General Counsel, Washington, DC 20546–0001. Telephone 202–358–3437.

SUPPLEMENTARY INFORMATION: On July 26, 2011, the Administrator published a notice of proposed rulemaking (NPRM) for patent and copyright infringement claims in the **Federal Register** (76 FR 44504). No public comments were received. Accordingly, NASA is issuing this rule with minor edits and only one change to reduce burden on respondents, namely, § 1245.202(b)(6), was amended to delete the request for a brief summary of any defenses or counterclaims made and positions maintained by opposing parties regarding noninfringement of patent(s), in prior initiated litigation.

The National Aeronautics and Space Act (51 U.S.C. 20113) authorizes the Administrator of NASA to settle administrative claims of patent and copyright infringement by NASA. In addition to that authority to acquire license rights and interests in patents and copyrights through settlement of claims, the Administrator has authority to settle claims of patent and copyright infringement pursuant to 22 U.S.C. 2356, 35 U.S.C. 183 and 286, and 28 U.S.C. 1498(b).

In accordance with these authorities, NASA is issuing regulations setting forth requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing privately owned rights in patented inventions or copyrighted works. The regulations are designed to inform potential claimants as to what information must be supplied in their communication to NASA regarding alleged infringement before NASA will consider a claim to have been filed. The regulations identify certain commonly received communications which are concerned with rights in patents and copyrights, but which will not be considered sufficient to constitute the formal filing of a claim.

The requirements for filing an administrative claim are important since the filing of a claim carries with it certain rights relating to the applicable statute of limitations for filing suit against the Government. In the case of patent infringement claims, Title 35 U.S.C. 286 provides that the six-year statute of limitations for filing suits for patent infringement may, in the case of claims against the Government, be tolled up to six years between the date of receipt of a written claim for compensation by the Government and the date of mailing by the Government of a notice that the claim has been denied. Copyright infringement claims can be tolled indefinitely under 28 U.S.C. 1498(b) between the date of receipt of a written claim for compensation by the Government and the date of mailing by the Government of a notice that the claim has been denied. The regulations set forth guidelines as to what NASA considers necessary to file a claim for patent or copyright infringement.

Section 1245.202(a) provides that in order for a potential claimant's communication to NASA to formally instigate a claim, it must specifically allege infringement by NASA, request compensation, identify a patent or copyright alleged to be infringed, and indicate an act or item which the potential claimant believes infringes the claimant's patent or copyright. Section 1245.203(a) advises the potential claimant where to forward communications regarding the alleged infringement. Section 1245.202(b) of the regulation identifies information which, although not necessary in order for a communication to be considered sufficient to constitute the filing of a claim, is usually necessary to process a claim and, therefore, if presented initially with the claim, may serve to expedite the handling of the claim. The regulations provide for written notification to the claimant upon completion of an investigation by NASA.

The revisions to this rule are part of NASA's retrospective plan under E.O. 13563 completed in August 2011. NASA's full plan can be accessed at: *http://www.nasa.gov/pdf/581545main_Final%20Plan%20for%20Retrospective%20Analysis%20of%20Existing%20Regulations.pdf.*

Regulatory Analysis Section

Paperwork Reduction Act Statement

This rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12866 and Executive Order 13563

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

Regulatory Flexibility Act

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The rule sets forth policies and procedures for the filing and disposition of claims of infringement of privately owned rights in patented inventions or copyrighted works asserted against NASA. These policies and procedures would not have a significant economic impact on a

substantial number of small entities as NASA typically has less than 10 of such claims asserted against it annually.

List of Subjects in 14 CFR Part 1245

Claims, Inventions, Patent and copyright infringement.

For the reasons stated in the preamble, NASA amends 14 CFR part 1245, by adding Subpart 2 to read as follows:

PART 1245—PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Subpart 2—Claims for Patent and Copyright Infringement

Sec.

1245.200 Purpose.
1245.201 Objectives.
1245.202 Contents of communication initiating claim.
1245.203 Incomplete notice of infringement.
1245.204 Indirect notice of infringement.
1245.205 Processing of administrative claims.

Subpart 2—Claims for Patent and Copyright Infringement

Authority: 51 U.S.C. 20112–20113; 22 U.S.C. 2356; 35 U.S.C. 181–188 and 286; and 28 U.S.C. 1498.

§ 1245.200 Purpose.

The purpose of this subpart is to set forth policies and procedures for the filing and disposition of claims of infringement of privately owned rights in patented inventions or copyrighted works asserted against NASA.

§ 1245.201 Objectives.

Whenever a claim of infringement of privately owned rights in patented inventions or copyrighted works is asserted against NASA, all necessary steps shall be taken to investigate and to administratively settle, deny, or otherwise dispose of such claim prior to suit against the United States. The General Counsel, or designee, is authorized to investigate, settle, deny, or otherwise dispose of all claims of patent and copyright infringement, pursuant to the above-cited statutory authority.

§ 1245.202 Contents of communication initiating claim.

(a) *Requirements for claim.* A patent or copyright infringement claim for compensation, asserted against the United States as represented by NASA under any of the applicable statutes cited above, must be actually communicated to and received by an organization, office, or within a NASA Center. Claims must be in writing and must include the following:

(1) An allegation of infringement.

(2) A request for compensation, either expressed or implied.

(3) A citation to the patent(s) or copyright(s) alleged to be infringed.

(4) In the case of a patent infringement claim, a sufficient designation to permit identification of the accused subject matter (e.g. article(s) or process(es)) alleged to infringe the patent(s), giving the commercial designation, if known to the claimant, or, in the case of a copyright infringement claim, the accused subject matter (e.g. act(s) or work(s)) alleged to infringe the copyright.

(5) In the case of a patent infringement claim, a designation of at least one claim of each patent alleged to be infringed or, in the case of a copyright infringement claim, a copy of each work alleged to be infringed.

(6) As an alternative to paragraphs (a)(4) and (5) of this section, certification that the claimant has made a bona fide attempt to determine the accused subject matter, which is alleged to infringe the patent(s), or the accused subject matter alleged to infringe the copyright(s), but was unable to do so, giving reasons and stating a reasonable basis for the claimant's belief that the patent(s) or copyright(s) is being infringed.

(b) *Additional information for patent infringement claims.* In addition to the information listed in paragraph (a) of this section, the following material and information generally are necessary in the course of processing a claim of patent infringement. Claimants are encouraged to furnish this information at the time of filing a claim to permit rapid processing and resolution of the claim.

(1) A copy of the asserted patent(s) and identification of all claims of the patent(s) alleged to be infringed.

(2) Identification of all procurements known to the claimants that involve the accused item(s) or process(es), including the identity of the vendor(s) or contractor(s) and the Government acquisition activity or activities.

(3) A detailed identification and description of the accused article(s) or process(es) used or acquired by the Government, particularly where the article(s) or process(es) relate to a component(s) or subcomponent(s) of an item acquired, and an element-by-element comparison of representative claim(s) with the accused article(s) or process(es). If available, the identification and description should include documentation and drawings to illustrate the accused article(s) or process(es) in sufficient detail to enable determining whether the claim(s) of the asserted patent(s) read on the accused article(s) or process(es).

(4) Names and addresses of all past and present licensees under the patent(s) and copies of all license agreements and releases involving the patent(s). In addition, an identification of all assignees of the patent(s).

(5) A list of all persons to whom notices of infringement have been sent, including all departments and agencies of the Government, and a statement of the status or ultimate disposition of each.

(6) A brief description of all litigation involving the patent(s) which was initiated at any time prior to the claim being filed and their present status. This includes any defenses or counterclaims made and positions maintained by opposing parties regarding invalidity of the patent(s).

(7) A description of Government employment or military service, if any, by the inventor(s) or patent owner(s) including a statement from the inventor(s) or patent owner(s) certifying whether the invention claimed in the patents was conceived or reduced to practice, in part or in whole, during Government employment and whether such inventor(s) or owner(s) occupied any position from which such inventor(s) or owner(s) was capable of ordering, influencing, or inducing use of the invention by the Government.

(8) A list of all contract(s) between the Government and inventor(s), patent owner(s), or anyone in privity with the patent owner(s), under which work relating to the patented subject matter was performed.

(9) Evidence of title to the asserted patent(s) or other right to make the claim.

(10) A copy of the United States Patent and Trademark Office (USPTO) file history of each patent, if it is available to the claimant. Indicate whether the patent has been the subject of any interference proceedings, certification of correction request, reexamination, or reissue proceedings at the USPTO, or lapsed for failure to pay any maintenance fee. In addition, the status of all corresponding foreign patents and patent applications and full copies of the same.

(11) Pertinent prior art known to the claimant not contained in the USPTO file, for example, publications and foreign prior art. In addition to the foregoing, if claimant can provide a statement that the investigation may be limited to the specifically identified accused article(s) or process(es) or to a specific acquisition (e.g. identified contract(s)), it may speed disposition of the claim. Claimants are also

encouraged to provide information on any ancillary matters that may have a bearing on validity or infringement.

(c) *Denial for refusal to provide information.* In the course of investigating a claim, it may become necessary for NASA to request information in the control and custody of the claimant that is relevant to the disposition of the claim. Failure of the claimant to respond to a request for such information shall be sufficient reason alone for denying a claim.

§ 1245.203 Incomplete notice of infringement.

(a) If a communication alleging patent infringement or copyright infringement is received that does not meet the requirements set forth in § 1245.202(a), the sender shall be advised in writing by the Agency Counsel for Intellectual Property:

(1) That the claim for infringement has not been satisfactorily presented; and

(2) Of the elements necessary to establish a claim.

(b) A communication, in which no infringement is alleged in accordance with § 1245.202(a), such as a mere proffer of a license, shall not be considered a claim for infringement.

§ 1245.204 Indirect notice of infringement.

A communication by a patent or copyright owner to addressees other than those specified in § 1245.202(a), such as NASA contractors, including contractors operating Government-owned facilities, alleging that acts of infringement have occurred in the performance of a Government contract, grant, or other arrangement, shall not be considered a claim within the meaning of § 1245.202(a) until such communication meets the requirements specified therein.

§ 1245.205 Processing of administrative claims.

(a) *Filing and forwarding of claims.* All communications regarding claims should be addressed to: Agency Counsel for Intellectual Property, Office of the General Counsel, National Aeronautics and Space Administration, Washington, DC 20546–0001. If any communication relating to a claim or possible claim of patent or copyright infringement is received by an agency, organization, office, or field installation within NASA, it shall be forwarded to the Agency Counsel for Intellectual Property.

(b) *Disposition and notification.* The General Counsel, or designee, shall investigate and administratively settle, deny, or otherwise dispose of each claim. When a claim is denied, the Agency shall so notify the claimant or the claimant's authorized representative and provide the claimant with the reasons for denying the claim. Disclosure of information shall be subject to applicable statutes, regulations, and directives pertaining to security, access to official records, and the rights of others.

(c) *Termination of claims.* If, while an administrative claim for patent or copyright infringement is pending against NASA, the claimant brings suit for patent or copyright infringement against the United States in the Court of Federal Claims based on the same facts or transactions as the administrative claim, the administrative claim shall thereupon be automatically dismissed, with no further action being required of NASA.

Charles F. Bolden, Jr.,

Administrator.

[FR Doc. 2012–6047 Filed 3–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 552

RIN 1235–AA05

Application of the Fair Labor Standards Act to Domestic Service

AGENCY: Wage and Hour Division, Labor.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for filing written comments until March 21, 2012 on the proposed revisions to the Application of the Fair Labor Standards Act to Domestic Service. On February 24, 2012, the Department published a document extending the comment period for the proposed revisions published on December 27, 2011 by an additional 14 days. This document further extends the comment period to March 21, 2012. The Department of Labor (Department) is taking this action in order to provide interested parties additional time to submit comments.

DATES: The agency must receive comments on or before March 21, 2012. The period for public comments, which was to close on March 12, 2012, will be extended to March 21, 2012.

ADDRESSES: You may submit comments, identified by RIN 1235–AA05, by either one of the following methods:

Electronic comments: through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Mary Ziegler, Director, Division of Regulations, Legislation and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name (Wage and Hour Division) and Regulatory Information Number identified above for this rulemaking (1235–AA05). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Consequently, prior to including any individual's personal information such as Social Security Number, home address, telephone number, email addresses and medical data in a comment, the Department urges commenters carefully to consider that their submissions are a matter of public record and will be publicly accessible on the Internet. It is the commenter's responsibility to safeguard his or her information. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* or to submit them by mail early. For additional information on submitting comments and the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll free number). Copies of this notice of proposed rulemaking may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023. TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of regulations issued by this agency or referenced in this document may be directed to the nearest Wage and Hour Division District Office.

Locate the nearest office by calling the Wage and Hour Division's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto the Wage and Hour Division's Web site for a nationwide listing of Wage and Hour District and Area Offices at: *http://www.dol.gov/whd/america2.htm.*

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing Comments

Public Participation: This notice of proposed rulemaking is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this document via the Department's Web site at *http://www.dol.gov/federalregister.* To comment electronically on federal rulemakings, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* which will allow you to find, review, and submit comments on federal documents that are open for comment and published in the **Federal Register**. Please identify all comments submitted in electronic form by the RIN docket number (1235–AA05). Because of delays in receiving mail in the Washington, DC area, commenters should transmit their comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov,* or submit them by mail early to ensure timely receipt prior to the close of the comment period. Submit one copy of your comments by only one method.

II. Request for Comment

The Department is proposing to revise the Fair Labor Standards Act minimum wage, overtime and recordkeeping regulations pertaining to the exemptions for companionship services and live-in domestic services. The Department proposes to amend the regulations to revise the definitions of ''domestic service employment'' and ''companionship services.'' The Department also proposes to more specifically describe the type of activities and duties that may be considered ''incidental'' to the provision of companionship services. In addition, the Department proposes to amend the recordkeeping requirements for live-in domestic workers. Finally, the Department proposes to amend the regulation pertaining to employment by a third party of companions and live-in domestic workers. This change would continue to allow the individual, family, or household employing the worker's services to apply the companionship and live-in exemptions and would deny all third party employers the use of such exemptions.

On December 15, 2011, President Obama announced that the Department of Labor was proposing the rule changes. The Department posted a Notice of Proposed Rulemaking (NPRM), complete with background information, economic impact analyses and proposed regulatory text, on its Web site that day. The Department published the NPRM in the **Federal Register** on December 27, 2011 (76 FR 81190), requesting public comments on the proposed revisions to the regulations pertaining to the exemption for companionship services and live-in domestic services. Interested parties were requested to submit comments on or before February 27, 2012. On February 24, 2012, the Department published a document in the **Federal Register** extending the original comment period by 14 days to March 12, 2012 (77 FR 11021).

The Department has received requests to extend the period for filing public comments from members of Congress and various business organizations. Because of the interest that has been expressed in this matter, the Department has decided to provide an additional extension of the period for submitting public comment until March 21, 2012.

Dated: March 8, 2012.

Nancy J. Leppink,

Deputy Administrator, Wage and Hour Division.

[FR Doc. 2012–6136 Filed 3–9–12; 4:15 pm]

BILLING CODE 4510–27–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0126]

Drawbridge Operation Regulation; Berwick Bay (Atchafalaya River), Morgan City, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Burlington Northern Santa Fe (BNSF) Railway Company vertical lift span bridge across Berwick Bay, mile 0.4, (Atchafalaya River, mile 17.5) at Morgan City, St. Mary Parish, Louisiana. The deviation is necessary to perform scheduled maintenance to the bridge. This deviation allows the bridge to remain in the closed-to-navigation position on two dates occurring in March of 2012.

DATES: This deviation is effective from 7:30 a.m. on Thursday, March 15, 2012 through 11:30 a.m. Thursday, March 22, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0126 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0126 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 rule, call or email Kay Wade, Bridge Branch Office, Coast Guard; telephone 504–671–2128, email *Kay.B.Wade@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The BNSF Railway Company has requested a temporary deviation from the operating schedule of the vertical lift span railroad bridge across Berwick Bay, mile 0.4 (Atchafalaya River, mile 17.5), at Morgan City, St. Mary Parish, Louisiana. The vertical lift span bridge has a vertical clearance of 6.4 feet above high water, elevation 8.2 feet Mean Sea Level in the closed-to-navigation position. Vessels able to pass underneath the bridge in the closed-to-navigation-position may do so.

In accordance with 33 CFR 117.5, the bridge currently opens on signal for the passage of vessels. This deviation allows the vertical lift span of the bridge to remain in the closed-to-navigation position from 7:30 a.m. through 11:30 a.m. on Thursday, March 15, 2012 and Thursday, March 22, 2012.

To avoid becoming a safety hazard, the closures are necessary in order to cut and weld worn rails and chipping Conley joints. This maintenance is essential for the continued safety and operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists of tugs with tows, fishing vessels and recreational craft, including sailboats

and powerboats. The bridge will be able to open for emergencies, if necessary. The Intracoastal Waterway—Morgan City to Port Allen Route and the Landside Route, including Bayou Boeuf, are alternate waterway routes for vessels not requiring greater than a 12 foot draft. Based on experience and coordination with waterway users, it has been determined that these closures will not have a significant effect on vessels that use the waterway.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 23, 2012.

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2012–5971 Filed 3–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0124]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Point Pleasant Canal, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Route 88/Veterans Memorial Bridge across Point Pleasant Canal, NJICW mile 3.0, at Point Pleasant, NJ. This deviation allows the bridge to remain closed-to-navigation in order to facilitate barrier gate replacement and extensive electrical remedial work on the bridge.

DATES: This deviation is effective from 7 a.m. on March 19, 2012 through 5 p.m. on March 23, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket USCG–2012–0124 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0124 in the ''Keyword'' box and then clicking ''Search''. This material is 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 rule, call or email Mr. Jim Rousseau, Bridge Administration Branch, Fifth Coast Guard District; telephone 757–398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The New Jersey Department of Transportation (NJDOT) owns and operates the vertical-lift span of the Route 88/Veterans Memorial Bridge across Point Pleasant Canal along the NJICW, in Point Pleasant, NJ. The bridge has a vertical clearance in the closed position to vessels of 10 feet, above mean high water. The current operating regulations are outlined at 33 CFR 117.5, which require the bridge to open when a request or signal to open is given.

The contractor, Agate Construction on behalf of NJDOT, has requested a temporary deviation to the existing regulations for the Route 88/Veterans Memorial Bridge to facilitate necessary repairs. The repairs consist of the replacement of bridge traffic control devices (barrier gates) and extensive electrical remedial work. Under this deviation, the vertical-lift span of the drawbridge will be maintained in the closed-to-navigation position from 7 a.m. on March 19, 2012, through 5 p.m. on March 23, 2012.

Bridge opening data, supplied by NJDOT and reviewed by the Coast Guard, revealed that the bridge opened for vessels 1 and 0 times during the months of March 2010 and 2011 respectively.

The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the closure period so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

Vessels that can pass under the bridge without a bridge opening may continue to do so at anytime. The Atlantic Ocean is an alternate route for vessels with mast heights greater than 10 feet. In the event of an emergency, the drawbridge will not be able to open for vessels.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulation is authorized under 33 CFR 117.35.

Dated: February 22, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–5978 Filed 3–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0122]

Drawbridge Operation Regulations; Hutchinson River, Bronx, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Amtrak Pelham Bay Railroad Bridge, mile 0.5, across the Hutchinson River at the Bronx, New York. The deviation is necessary to facilitate scheduled maintenance at the bridge. This deviation allows the bridge to remain in the closed position for four days.

DATES: This deviation is effective from 10 p.m. on March 16, 2012 through 4 a.m. on March 26, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0122 and are available online at *www.regulations.gov,* inserting USCG–2012–0122 in the ''Keyword'' 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 rule, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or telephone (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Amtrak Pelham Bay Railroad Bridge, across the Hutchinson River, mile 0.5, at the Bronx, New York, has a vertical clearance in the closed position of 8 feet at mean high water and 15 feet at mean

low water. The drawbridge operation regulations are listed at 33 CFR 117.793.

The waterway users are mostly commercial operators.

The owner of the bridge, National Railroad Passenger Company (Amtrak), requested a temporary deviation from the regulations to facilitate scheduled maintenance, to replace fiber optic cables, at the bridge.

Under this temporary deviation the Amtrak Pelham Bay Railroad Bridge may remain in the closed position from 10 p.m. on March 16, 2012 through 4 a.m. on March 19, 2012. In the event of inclement weather the closure will commence at 10 p.m. on March 23, 2012 through 4 a.m. on March 26, 2012. Vessels that can pass under the bridge in the closed position may do so at any time.

The commercial users were notified. No objections were received.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 23, 2012.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2012–5979 Filed 3–12–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2011–0118; A–1–FRL–9644–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Reasonably Available Control Technology (RACT) for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving four State Implementation Plan (SIP) revisions submitted by the Rhode Island Department of Environmental Management (RI DEM). These revisions demonstrate that the State of Rhode Island meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA) with respect to the 1997 8-hour ozone standard. The intended effect of this action is to approve Rhode Island's RACT demonstration and the submitted regulations and incorporate them into the Rhode Island SIP. Additionally, EPA is approving Rhode Island's negative declarations for several categories of VOC sources. This action is being taken in accordance with the CAA.

DATES: This rule is effective on May 14, 2012, unless EPA receives adverse comments by April 12, 2012. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2011–0118, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2011–0118,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2011–0118. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency; Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, U.S. Environmental Protection Agency, New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Mail Code OEP05–02, Boston, MA 02109–3912, telephone 617–918–1584, facsimile 617–918–0584, email *mackintosh.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

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

I. Background and Purpose
II. Summary of Rhode Island's SIP Revisions
III. EPA's Evaluation of Rhode Island's SIP Revisions
A. RACT Demonstration
B. Other VOC Rules
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background and Purpose

In 1997, EPA revised the health-based National Ambient Air Quality Standard (NAAQS) for ozone, setting it at 0.08 parts per million (ppm) averaged over an 8-hour time frame. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004, pursuant to the Federal Clean Air Act (the Act, or CAA), 42 U.S.C. 7401 *et seq.,* EPA designated portions of the country as being in nonattainment of the 1997 8-hour ozone NAAQS (69 FR 23858). The entire State of Rhode Island was designated as nonattainment for ozone and classified as moderate. The entire State of Rhode Island is also part of the Ozone Transport Region (OTR) under Section 184(a) of the CAA. Sections 182(b)(2) and 184 of the CAA compel States with moderate and above ozone nonattainment areas, as well as areas in the OTR respectively, to submit a revision to their applicable State Implementation Plan (SIP) to include provisions to require the implementation of reasonable available control technology (RACT) for sources covered by a Control Techniques Guideline (CTG) and for all major sources. A CTG is a document issued by EPA which establishes a ''presumptive norm'' for RACT for a specific VOC source category.

EPA has determined that States which have RACT provisions approved in their SIPs for the 1-hour ozone standard have several options for fulfilling the RACT requirements for the 8-hour ozone NAAQS. If a State meets certain conditions, it may certify that previously adopted 1-hour ozone RACT controls in the SIP continue to represent RACT control levels for purposes of fulfilling 8-hour ozone RACT requirements. Alternatively, a State may establish new or more stringent requirements that represent RACT control levels, either in lieu of, or in conjunction with, a certification. In addition, a State may submit a negative declaration if there are no CTG sources or major sources of VOC and NO_X emissions in lieu of, or in addition to, a certification. See Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2 (the Phase 2 Rule) (70 FR 71612; November 29, 2005).

As noted in the EPA's Phase 2 ozone implementation rule, the RACT submittal for the 1997 8-hour ozone standard was due from Rhode Island on September 16, 2006. (See 40 CFR 51.916(b)(2).) On March 24, 2008 (73 FR 15416), EPA issued a finding of failure to submit to Rhode Island for the 1997 8-hour ozone RACT requirement. This finding started an 18-month sanctions clock, as well as a 24-month Federal Implementation Plan (FIP) clock. On April 30, 2008, the RI DEM submitted a SIP revision which included an attainment demonstration, a RACT demonstration, and a reasonable further progress plan for the 8-hour ozone NAAQS. EPA determined the SIP revision complete on May 30, 2008, stopping the 18-month sanctions clock. Today's action only addresses the RACT demonstration portion of Rhode Island's submittal.

In addition, on September 22, 2008, RI DEM submitted a SIP revision containing revised Air Pollution Control (APC) Regulation No. 36, Control of Emissions from Organic Solvent Cleaning. Then, on October 27, 2009, RI DEM submitted a SIP revision containing three revised APC regulations: Regulation No. 25, Control of VOC Emissions from Cutback and Emulsified Asphalt; Regulation No. 31, Control of VOCs from Consumer Products; and Regulation No. 33, Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings. Lastly, on March 25, 2011, RI DEM submitted a SIP revision for their new APC General Definitions Regulation.

II. Summary of Rhode Island's SIP Revisions

On April 30, 2008, RI DEM submitted a SIP revision titled, ''The Rhode Island Attainment Plan for the 8-Hour Ozone National Ambient Air Quality Standard,'' which included a RACT demonstration in Chapter 6. Except for two source categories, solvent metal degreasing and asphalt paving, RI DEM determined that their existing VOC controls previously adopted as RACT under the 1-hour ozone standard for CTG source categories and for non-CTG major sources still constitute RACT for the 8-hour ozone standard.

In its RACT demonstration, RI DEM committed to adopt and submit revised regulations for asphalt paving and solvent metal degreasing. Subsequently, on September 22, 2009, RI DEM submitted the SIP revision containing revised APC Regulation No. 36, Control of Emissions from Organic Solvent Cleaning, and on October 27, 2009, submitted a SIP revision containing revised APC Regulation No. 25, Control of VOC Emissions from Cutback and Emulsified Asphalt.

As part of its ozone attainment demonstration, Rhode Island also committed to submit revised regulations for consumer products and architectural and industrial maintenance coatings. On October 27, 2009, RI DEM submitted a SIP revision containing revised APC Regulations No. 31, Control of VOCs from Consumer Products, and No. 33, Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings.

In addition, as stated in the RACT demonstration, RI DEM has determined that there are no applicable stationary sources of VOC in Rhode Island for certain CTG categories and makes a negative declaration for these categories:

1. Refinery Vacuum Producing Systems Wastewater Separators and Process Unit Turnarounds (1977)
2. Leaks from Petroleum Refinery Equipment (1978)
3. Manufacture of Pneumatic Rubber Tires (1978)
4. Large Petroleum Dry Cleaners (1982)
5. Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins (1983)
6. Synthetic Organic Chemical Mfg Equipment Fugitive Emissions (1984)
7. Synthetic Organic Chemical Mfg Air Oxidation Processes (1984)

Finally, the March 25, 2011, SIP revision included a new APC General Definitions Regulation. The newly created General Definitions Regulation contains over 40 terms that were previously defined in each individual APC regulation. Common terms were consolidated and some terms, such as ''Volatile Organic Compound'' were updated to be consistent with current federal definitions.

III. EPA's Evaluation of Rhode Island's SIP Revisions

A. RACT Demonstration

EPA has evaluated Rhode Island's RACT regulations and has determined that they are generally consistent with the applicable EPA guidance documents. In the absence of any evidence to the contrary, EPA agrees with Rhode Island's assertion that, with the exception of two CTG categories (cutback asphalt and solvent cleaning), the NO_X and VOC RACT regulations previously approved by EPA and incorporated into the Rhode Island SIP under the 1-hour ozone standard (see 58 FR 65933, 64 FR 67495, 62 FR 46202, and 65 FR 81743) continue to constitute RACT under the 8-hour ozone standard.[1]

APC Regulation No. 25, Control of VOC Emissions from Cutback and Emulsified Asphalt was last approved by the EPA on December 2, 1999 (64 FR 67495). This APC regulation applies to anyone that solicits the use of or applies asphalt for road paving, maintenance, or repairs.[2] APC Regulation No. 25 was revised to prohibit, as of May 1, 2010, the use of cutback asphalt and limit the VOC[3] content of emulsified asphalt used for road paving, maintenance, or repair during the ozone season, which is May 1st through September 30th of each year. Based on the model rule developed by the Ozone Transport Commission (OTC) in November 2006, Rhode Island removed exemptions from Regulation No. 25 that previously permitted the use of cutback asphalt during the ozone season and set a more stringent limit on the ozone season VOC content of emulsified asphalt. The use of emulsified asphalt during the ozone season is prohibited unless its formulation data proves that the product contains less than 0.1 percent or less VOC by weight, as applied,[4] or the applied emulsified asphalt contains not more than 6.0 milliliter of oil distillate per 200 milliliter sample using ASTM Method D 244 or AASHTO Method T 59. These restrictions apply only to road paving, maintenance, or repairs. Since the revised rule is more stringent than the previously approved cutback and emulsified asphalt VOC requirements, the new APC Regulation No. 25 satisfies the section 110(l) anti-backsliding requirements of the CAA. Case-by-case exemptions to the APC Regulation No. 25 requirements are only permitted with written approval from the RI DEM director and the EPA. The written approval by both RI DEM and EPA must be received before cutback or emulsified asphalt not meeting the requirements of section 25.3 may be used. In evaluating any request, EPA will consider the criteria specified in section 25.2.2.

APC Regulation No. 36, Control of Emissions from Organic Solvent Cleaning, was last approved by the EPA December 2, 1999 (64 FR 67495). The revisions to Regulation No. 36 require additional control measures that were recommended by the OTC to reduce VOC emissions from cold cleaning operations, which are also consistent with the Federal Maximum Achievable Control Technology (MACT) standard (40 CFR Part 63 Subpart T). The revisions specifically exempt cold cleaners using solvents containing 5 percent or less VOCs or volatile hazardous air pollutants (HAPs) from the regulation to encourage facilities to switch to aqueous based cleaners, many of which contain small amounts of solvents. Rhode Island's revised rule also includes the OTC's recommended solvent vapor pressure limit of 1.0 mm of mercury (Hg) for cold cleaning solvents. The addition of a vapor pressure limit makes Rhode Island's revised APC Regulation No. 36 more stringent than the previous version of the rule approved by EPA into the Rhode Island SIP (64 FR 67495; December 2, 1999), thus satisfying the anti-backsliding requirements of the CAA sections 110(l). Also, the low vapor pressure requirement is above and beyond the controls EPA has outlined as RACT in EPA's solvent cleaning CTG (EPA–450/2–77–022, November 1977) and more stringent than the 8.0 mm Hg vapor pressure standard recommended in EPA's more recent CTG for Industrial Cleaning Solvents (EPA 453/R–06–001, September 2006).

Although APC Regulation No. 36 includes the low vapor pressure requirement found in the OTC model rule, Rhode Island's rule also includes a few specified exemptions from this requirement. Specifically, the requirement does not apply to cold cleaning machines: (1) Used in ''special and extreme solvent cleaning;'' (2) for which use of such a solvent is demonstrated to result in unsafe operating conditions; or (3) that are located in a permanent total enclosure having control equipment that is designed and operated with an overall VOC removal efficiency of 90 percent or greater. The term ''special and extreme solvent cleaning'' is defined to mean the cleaning of metal parts in research, development, manufacture and rework of electronic parts, assemblies, boxes, wiring harnesses, sensors and connectors used in aerospace service or other high precision products for which contamination must be minimized. These exemptions from the low vapor pressure requirement are based on comments received by New York during the rulemaking on their solvent cleaning rule. New York's Part 226, ''Solvent Metal Cleaning Processes,'' also includes these same exemptions from the low vapor pressure requirement. EPA approved New York's solvent cleaning rule on January 23, 2004 (69 FR 3237). As noted above, Rhode Island's low vapor pressure requirement is more stringent than requirements recommended in EPA guidance, as well as requirements in the previously SIP-approved version of Rhode Island's No. 36 regulation, therefore, exemptions from this requirement are considered acceptable.

Rhode Island's April 30, 2008, RACT demonstration also references permits for applicable sources in the Ship Building and Repair CTG category. While Rhode Island does not have an APC regulation for ship building and repair, federally enforceable permits satisfy the CTG requirements for the two Rhode Island facilities in this category (Senesco and General Dynamics). The two permits cited in the RACT demonstration were issued pursuant to Rhode Island Regulation No. 9 Air Pollution Control Permits, which was approved by the EPA December 02, 1999 (64 FR 67495). These permits specify VOC limits for marine coatings for both general use and specialty applications that are consistent with EPA's CTG for Shipbuilding and Ship Repair Operations (EPA–453/R–94–032). Operating and compliance requirements are also included in the permits with detailed procedures to determine VOC contents of coatings to which thinning solvent will be added. The permits also prescribe testing, recordkeeping, and reporting requirements consistent with the EPA guidance document ''Model Volatile

[1] It should also be noted that Rhode Island attained the 8-hour ozone standard by its applicable attainment date, June 15, 2010 (75 FR 64949, October 21, 2010).

[2] EPA interprets Rhode Island's definitions of asphalt to specifically include cutback and emulsified asphalt. Rhode Island's regulations define these asphalts as types of ''asphalt cements,'' which is an otherwise undefined term.

[3] Section 25.2.3 of APC Regulation No. 25 specifies that VOC should be read to include Halogenated Organic Compounds (''HOC''). Rhode Island did not submit this provision to EPA as part of its SIP package. EPA is therefore not taking any action on this provision and for the purposes of federal law, APC Regulation No. 25 only applies to VOC content.

[4] To demonstrate that a formulation as applied has 0.1 percent or less VOC by weight, a person must supply VOC content of each emulsified asphalt component, in percent, as determined by an approved test method and the mix ratio for each emulsified asphalt component.

Organic Compound Rules for Reasonably Available Control Technology,'' June 1992.

As discussed above, Rhode Island regulations and permits are consistent with the applicable EPA guidance. Therefore, EPA concludes that Rhode Island's RACT demonstration submitted on April 30, 2008, along with the subsequent submittals of APC Regulations 25 and 36 constitute RACT for the relevant source categories, and as such, Rhode Island has met the CAA requirement to submit RACT for the 1997 8-hour ozone standard.

B. Other VOC Rules

Rhode Island's revised APC Regulation No. 31, Control of VOCs from Consumer Products and Regulation No. 33, Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings were previously approved by EPA on December 2, 1999 (64 FR 67495), as contingency regulations that would be triggered only if Rhode Island failed to achieve the 15 percent VOC reduction requirements of the CAA. The regulations were never triggered and, thus, the emissions limits in the rules have not been effective. The revised versions of APC Regulations No. 31 and No. 33 are not contingency regulations and compliance with emission limits in these rules was due by July 1, 2009. Therefore, the two regulations are more stringent than the previous regulations that were never triggered, thus satisfying the anti-backsliding requirements of the CAA sections 110(l).

The revised APC Regulations No. 31 and No. 33 limit the VOC content of 102 categories of consumer products and 53 categories of architectural and industrial maintenance (AIM) coatings, respectively. The limits in Rhode Island's AIM rule are based on an OTC model rule developed in 2001, while Rhode Island's consumer products limits reflect the 2006 OTC updates in addition to the 2001 limits. Rhode Island's Regulation 31 contains limits for more categories of consumer products than the EPA's National Volatile Organic Compound Emission Standards for Consumer Products rule at 40 CFR Part 59 Subpart C (63 FR 48831; September 11, 1998). The Rhode Island Regulation 31 limits are equal to, or more stringent than, those found in the EPA consumer products rule.

The consumer products listed in APC Regulation No. 31 include items sold to retail consumers for household or automotive use as well as products used in commercial and institutional settings, such as beauty shops, schools and hospitals.[5] The revised regulation has 102 categories with VOC content limits equal or less than the previous contingent consumer product limits. Since the previous limits were never enacted, the revised rule is more stringent and thus meets the anti-backsliding requirements in the CAA sections 110(l). In addition to the VOC emissions limits, APC Regulation No. 31 includes the following:

1. Limits on toxic contaminants in antiperspirants and deodorants and other consumer products;

2. Requirements for charcoal lighter materials, aerosol adhesives and floor wax strippers;

3. Requirements for products containing ozone-depleting compounds;

4. Product labeling requirements; and

5. Record keeping, reporting and testing requirements.

APC Regulation No. 33, Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings, applies to anyone who sells, offers for sale, supplies, manufactures, applies or solicits the application of AIM coatings. The revised regulation has 53 coating categories with VOC content limits less than or equal to the previous contingency AIM limits. The limits are also less than or equal to the corresponding categories found in EPA's National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 CFR Part 59 Subpart D (63 FR 48877; September 11, 1998). Since the previous limits were never enacted, the revised rule is more stringent and thus meets the anti-backsliding requirements in the CAA sections 110(l).

In addition to the limits on the VOC content of the coatings, the rule includes the following:

1. Painting practice and thinning specifications;

2. Requirements for rust preventative coatings, lacquers and AIM coatings not specifically listed in the regulation;

3. Product labeling requirements;

4. Recordkeeping, reporting and testing requirements.

As outlined above, Rhode Island's revised Regulation No. 31, without the exemptions contained in 31.2.3 through 31.2.5 that were withdrawn, and Regulation No. 33 are more stringent than EPA's national rules for consumer products and AIM coatings and more stringent than the previous SIP-approved versions of these regulations. Therefore, with the conditions discussed, EPA finds Rhode Island's Regulations No. 31 and 33 approvable.

Finally, Rhode Island's new General Definitions regulation contains over 40 terms that were previously defined in each individual APC regulation. EPA has reviewed this rule and has found that many of the definitions were previously approved into the Rhode Island SIP. The term ''volatile organic compound'' was updated to be consistent with updates to the federal definition of this term. See 40 CFR Part 51.100(s). Therefore, EPA finds Rhode Island's rule to be approvable.

IV. Final Action

EPA is approving Rhode Island's April 30, 2008 RACT certification and negative declarations as meeting RACT for the 1997 8-hour ozone standard. EPA is also approving the following Rhode Island regulations and incorporating them into the Rhode Island SIP: Revised APC Regulation No. 25, Control of VOC Emissions from Cutback and Emulsified Asphalt (with the exception of Section 25.2.3 which the state did not submit as part of the SIP revision); revised APC Regulation No. 31, Control of VOCs from Consumer Products (with the exception of Sections 31.2.3–31.2.5 which were withdrawn from consideration as part of the SIP revision); revised APC Regulation No. 33, Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings; revised APC Regulation No. 36, Control of Emissions from Organic Solvent Cleaning; and new APC General Definitions Regulation.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective May 14, 2012 without further notice unless the Agency receives relevant adverse comments by April 12, 2012.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a

[5] In a letter dated February 1, 2012, Rhode Island withdrew sections 31.2.3 through 31.2.5 from consideration as part of its SIP. EPA is therefore not acting on these provisions. These provisions, providing exemptions from the rule, are still valid as a matter of state law. For an exemption approved under these provisions to be federally enforceable and limit EPA's authority to enforce the general VOC content provisions, the specific exemption must be approved as a SIP revision. Until Rhode Island submits an exemption to EPA and EPA approves that exemption as a SIP revision, the exemption is not effective as a matter of federal law. See 61 FR 38665.

subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 14, 2012 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

In addition, Rhode Island was issued a finding a failure to submit which started an 18 month sanctions clock and a 24 month Federal Implementation Plan (FIP) clock. The 18 month sanctions clock was stopped when Rhode Island submitted the SIP and EPA determined it complete on May 30, 2008. The 24 month FIP clock will stop upon the effective date of our final approval, May 14, 2012.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 14, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 9, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

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

PART 52—[AMENDED]

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

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

■ 2. In § 52.2070:

■ a. Table (c) is amended by adding one new entry (APC General Definitions Regulation) at the beginning of the table, and revising existing entries for Air Pollution Control Regulation Nos. 25, 31, 33, and 36; and

■ b. Table (e) is amended by adding two new entries at the end of the table.

The additions and revisions read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control General Definitions Regulation.	General Definitions	9/29/2010	3/13/2012 [Insert **Federal Register** page number where the document begins].	

EPA-APPROVED RHODE ISLAND REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Air Pollution Control Regulation 25.	Control of VOC Emissions from Cutback and Emulsified Asphalt.	11/12/2009	3/13/2012 [Insert **Federal Register** page number where the document begins].	All of No. 25 is approved with the exception of Section 25.2.3 which the state did not submit as part of the SIP revision.
*	*	*	*	*
Air Pollution Control Regulation 31.	Control of VOCs from Commercial and Consumer Products.	6/4/2009	3/13/2012 [Insert **Federal Register** page number where the document begins].	All of No. 31 is approved with the exception of Sections 31.2.3 through 31.2.5 which deal with exemptions to the general provisions of the rule and were withdrawn by the state from consideration as part of the SIP revision.
*	*	*	*	*
Air Pollution Control Regulation 33.	Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings.	6/4/2009	3/13/2012 [Insert **Federal Register** page number where the document begins].	
*	*	*	*	*
Air Pollution Control Regulation 36.	Control of Emissions from Organic Solvent Cleaning.	10/9/2008	3/13/2012 [Insert **Federal Register** page number where the document begins].	Revised to incorporate solvent vapor pressure limit of 1.0 mm Hg to meet 8-hour ozone RACT. All of No. 36 is approved with the exception of Section 36.2.2 which the state did not submit as part of the SIP revision.
*	*	*	*	*

* * * * *

(e) *Nonregulatory.*

RHODE ISLAND NON REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Explanations
*	*	*	*	*
RACT Demonstration included in Chapter 6 of the Rhode Island Attainment Plan for the 8-Hour Ozone National Ambient Air Quality Standard.	Statewide	Submitted 04/30/2008.	3/13/2012 [Insert **Federal Register** page number where the document begins].	
Negative declarations included in the Rhode Island Attainment Plan for the 8-Hour Ozone National Ambient Air Quality Standard.	Statewide	Submitted 04/30/2008.	3/13/2012 [Insert **Federal Register** page number where the document begins].	Includes negative declarations for the following Control Techniques Guideline Categories: Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds (1977); Leaks from Petroleum Refinery Equipment (1978); Manufacture of Pneumatic Rubber Tires (1978); Large Petroleum Dry Cleaners (1982); Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins (1983); Synthetic Organic Chemical Mfg Equipment Fugitive Emissions (1984); Synthetic Organic Chemical Mfg Air Oxidation Processes (1984).

[FR Doc. 2012–5762 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0714; FRL–9645–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware, New Jersey, and Pennsylvania; Determinations of Attainment of the 1997 Annual Fine Particulate Standard for the Philadelphia-Wilmington Nonattainment Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule, published on January 23, 2012 (77 FR 3147), that made two determinations regarding the Philadelphia-Wilmington fine particulate ($PM_{2.5}$) nonattainment area (the Philadelphia Area), which is comprised of the New Castle County in Delaware; Burlington, Camden, and Gloucester Counties in New Jersey; and Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties in Pennsylvania. First, EPA made a determination that the Philadelphia Area attained the 1997 annual $PM_{2.5}$ national ambient air quality standard (NAAQS) by its attainment date of April 5, 2010. Second, EPA made a clean data determination, finding that the Philadelphia Area has attained the 1997 $PM_{2.5}$ NAAQS, based on quality assured and certified ambient air monitoring data for the 2007–2009 and 2008–2010 monitoring periods. In the direct final rule, EPA stated that if we received adverse comment by February 22, 2012, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments. EPA will address the comments received in a subsequent final action based upon the proposed action also published on January 23, 2012 (77 FR 3223). EPA will not institute a second comment period on this action.

DATES: The direct final rule published on January 23, 2012 (77 FR 3147) is withdrawn as of March 13, 2012.

ADDRESSES: EPA has established docket number EPA–R03–OAR–2011–0714 for this action. The index to this action is available electronically at *http://www.regulations.gov* and in hard copy at Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning EPA's action related to Delaware or Pennsylvania, please contact Maria A. Pino, (215) 814–2181, or by email at *pino.maria@epa.gov*. If you have questions concerning EPA's action related to New Jersey, please contact Henry Feingersh, (212) 637–3382, or by email at *feingersh.henry@epa.gov*.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 6, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

Accordingly, the addition of 40 CFR 52.425, 52.427, 52.1576, 52.1602(d), 52.2056(f), and 52.2059(e), published on January 23, 2012 (77 FR 3147), is withdrawn as of March 13, 2012.

Dated: February 22, 2012.

Judith A. Enck,

Regional Administrator, Region II.

[FR Doc. 2012–5880 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0910051338–0151–02]

RIN 0648–XB059

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trip Limit Adjustments for the Common Pool Fishery

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

ACTION: Temporary rule; inseason adjustment of landing limits.

SUMMARY: NMFS increases the possession limits for Georges Bank (GB) cod and Southern New England (SNE)/Mid-Atlantic (MA) yellowtail flounder for Northeast (NE) multispecies common pool vessels for the remainder of the 2011 fishing year (FY), through April 30, 2012. This is intended to facilitate the harvest of GB cod and SNE/MA yellowtail flounder to allow the total catch of these stocks to approach their pertinent common pool sub-annual catch limits (sub-ACLs).

DATES: Effective March 8, 2012, through April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, (978) 675–2153, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the NE multispecies fishery are found at 50 CFR part 648, subpart F. The regulations at § 648.86(o) authorize the NE Regional Administrator (RA) to adjust the possession limits for common pool vessels in order to optimize the harvest of NE regulated multispecies by preventing the overharvest or underharvest of the pertinent common pool sub-ACLs. For FY 2011, the common pool sub-ACLs for GB cod is 205,030 lb (93 mt). The initial FY 2011 trip limit for GB cod was 2,000 lb (907.2 kg) per day-at-sea (DAS), up to 20,000 lb (9,071.8 kg) per trip, for Category A DAS vessels. However, the intended initial trip limit for GB cod for FY 2011 under Framework Adjustment 45 to the NE Multispecies Fishery Management Plan (FMP) was 3,000 lb (1,360.8 kg) per DAS, up to 30,000 lb (13,607.8 kg) per trip. Therefore, an inseason action that published in the **Federal Register** on May 19, 2011 (76 FR 30035) increased the trip limit to 3,000 lb (1,360.8 kg) per DAS, up to 30,000 (13,607.8 kg) per trip to adjust for this inadvertent error. Subsequently, an inseason action that published in the **Federal Register** on August 30, 2011 (76 FR 53832), reduced the GB cod trip limit to 300 lb (136.1 kg) per DAS, up to 600 lb (272.2 kg) per trip, for Category A DAS vessels. For Handgear B vessels, the GB cod trip limit was reduced to 25 lb (11.3 kg) per trip from 75 lb (34.0 kg) per trip on October 3, 2011 (76 FR 61060).

For FY 2011, the common pool sub-ACL for SNE/MA yellowtail flounder is 265,555 lb (120 mt). The initial trip limit for SNE/MA yellowtail flounder was 500 lb (226.8 kg) per DAS up to 2,000 lb (907.2 kg) per trip, and has not been revised for this fishing year.

As of February 25, 2011, the best available catch information, including information from Vessel Monitoring System (VMS) reports and dealer reports, indicates that approximately 58.5 percent of the GB cod and 1.2 percent of the SNE/MA yellowtail flounder common pool sub-ACLs has been harvested. Based on this information, the RA has determined that additional measures are warranted to help facilitate the harvest of GB cod and SNE/MA yellowtail flounder to better allow the total catch of these stocks by

common pool vessels to approach their pertinent common pool sub-ACLs. Therefore, the trip limit for GB cod is increased to 1,500 lb (608.4 kg) per DAS, up to 4,500 lb (2,041.1 kg) per trip; and the trip limit for SNE/MA yellowtail flounder is increased to 1,500 lb (608.4 kg) per DAS, up to 4,500 lb (2,041.8 kg) per trip, for Category A DAS vessels, effective March 8, 2012, through April 30, 2012. In addition, the trip limit for GB cod is increased to 75 lb (34.0 kg) per trip for open access Handgear B vessels effective March 8, 2012, through April 30, 2012. This action does not change the current cod trip limit for vessels with a limited access Handgear A permit (300 lb (136.1. kg) per trip) or Small Vessel Category permit (300 lb (136.1 kg) of cod, haddock, and yellowtail flounder combined). Catch will continue to be monitored through dealer-reported landings, VMS catch reports, and other available information, and if necessary, additional adjustments to common pool management measures may be made.

Classification

This action is authorized 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)(3)(B) to waive prior notice and the opportunity for public comment for this inseason adjustment because notice and comment would be impracticable and contrary to the public interest. The regulations at § 648.86(o) grant the RA authority to adjust the NE multispecies trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool sub-ACLs. The information informing this action only very recently became available. Give this fact, this action increases the trip limits for GB cod and SNE/MA yellowtail flounder to reduce the probability of underharvesting the common pool sub-ACLs. The information informing this action only very recently became available. Given his fact, the time necessary to provide for prior notice and comment would prevent NMFS from implementing the necessary trip limit adjustments in a timely manner. A resulting delay in the liberalization of trip limits would unnecessarily restrain catch rates for GB cod and SNE/MA yellowtail flounder, thereby preventing the total catch of these stocks to further approach the pertinent common pool sub-ACL. Giving effect to this rule as soon as possible will prevent these unnecessary impacts.

Further, the AA finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This action increases the trip limits for GB cod and SNE/MA yellowtail flounder to reduce the probability of underharvesting the common pool sub-ACLs. A delay in the increase of these trip limits would prevent vessels from harvesting catch at higher rates and potentially prevent the total catch of these stocks to further approach the pertinent common pool sub-ACL. Giving effect to this rule as soon as possible will prevent these unnecessary impacts.

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

Dated: March 8, 2012.

Carrie Selberg,

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

[FR Doc. 2012–6048 Filed 3–8–12; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522–0640–02]

RIN 0648–XB077

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2012 total allowable catch of pollock for Statistical Area 630 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 10, 2012, through 1200 hrs, A.l.t., August 25, 2012.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2012 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA is 2,589 metric tons (mt) as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011) and inseason adjustment (77 FR 438, January 5, 2012). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the B season pollock allowance by 179 mt to reflect the total overharvest of the A seasonal apportionment in Statistical Area 630. Therefore, the revised B season allowance of the pollock TAC in Statistical Area 630 is 2,410 mt (2,589 mt minus 179 mt)

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2012 TAC of pollock in Statistical Area 630 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,200 mt and is setting aside the remaining 210 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 7, 2012.

The AA also finds good cause to waive the 30-day delay in the effective

date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 8, 2012.

Carrie Selberg,

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

[FR Doc. 2012–6046 Filed 3–8–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 49
Tuesday, March 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB–2011–0039]

Streamlining Inherited Regulations

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of streamlining project; request for information; extension of comment response period.

SUMMARY: On December 5, 2011, the Bureau of Consumer Financial Protection (the Bureau) published in the **Federal Register** a notice and request for information requesting specific suggestions from the public for streamlining regulations it recently inherited from other Federal agencies (the Streamlining Notice) The Streamlining Notice provided for a two-stage comment process. Initial comments were due March 5, 2012. The Notice then allowed a 30-day period, closing on April 3, 2012, for submitting responses to the comments filed. Due to the likely number and complexity of the comments submitted in the first round and to allow parties more time to consider and craft their responses to those initial submissions, the Bureau has determined that an extension of the comment reply period until June 4, 2012, is appropriate. This action will allow interested persons more time to analyze the submitted comments and prepare their responses. However, the initial comment period is still closed as of March 5, 2012.

DATES: The comment reply period for the Streamlining Notice published December 5, 2011, at 76 FR 75825, is extended. Although initial comments on streamlining the inherited regulations must have been received on or before the original date of March 5, 2012, responses to those comments now must be received on or before June 4, 2012.

ADDRESSES: You may submit comments or responses by any of the methods identified in the Streamlining Notice. Please submit your comments or responses using only one method.

FOR FURTHER INFORMATION CONTACT: Jane Gell, Senior Counsel and Special Advisor; Joseph Devlin, Regulations Counsel, Research, Markets & Regulations Division, Bureau of Consumer Financial Protection, (202) 435–7700.

SUPPLEMENTARY INFORMATION: On December 5, 2011, the Bureau published the Streamlining Notice in the **Federal Register.**[1] The Streamlining Notice requested specific suggestions from the public for streamlining regulations the Bureau recently inherited from other Federal agencies. It asked commenters to identify provisions of the inherited regulations that the Bureau should make the highest priority for updating, modifying, or eliminating because they are outdated, unduly burdensome, or unnecessary. The Streamlining Notice also discussed several specific requirements that might warrant review, and sought suggestions for practical measures to make complying with the regulations easier. The Streamlining Notice provided for a two-stage comment process—an initial comment period followed by a period in which responses to the initial comments could be submitted. The initial comment period for the Notice was to close on March 5, 2012. The period for submitting responses to the comments was to close on April 3, 2012.

The Bureau received a joint request from several industry and consumer advocacy groups for an extension of the second stage of the Streamlining Notice comment process, the reply period.[2] The joint request letter stated that a large number of first-round comments were anticipated and 30 days was not an adequate time period for responding to them. The letter pointed out that ''reviewing, assimilating, and thoughtfully responding to these comments will take time.'' The letter went on to suggest that ''providing adequate time during the reply period [might] encourage the identification and development of areas of consensus among consumer and industry groups that ultimately would facilitate and accelerate the Bureau's ability to execute on common concerns, and perhaps common solutions.''

For the reasons described in the joint request for an extension, the Bureau is extending the period allotted for reply to initial comments received pursuant to the Streamlining Notice. The reply period will now close on June 4, 2012. The initial comment period is unchanged, with a close of March 5, 2012.

Dated: March 6, 2012.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2012–5933 Filed 3–12–12; 8:45 am]

BILLING CODE 3180–AM–P

[1] 76 FR 75825.

[2] Letter to David Silberman (Feb. 10, 2012), signed by representatives of the ABA Center for Regulatory Compliance, Consumer Bankers Assn., American Financial Services Assn., Consumer Mortgage Coalition, Center for Responsible Lending, Financial Services Roundtable, Clearing House Assn., Mortgage Bankers Assn., and National Consumer Law Center.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0137]

RIN 1625–AA00

Safety Zones; Swim Around Charleston, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary moving safety zones during the Swim Around Charleston, a swimming race occurring on the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The Swim Around Charleston is scheduled to take place on Sunday, September 23, 2012. The temporary safety zones are necessary for the safety of the swimmers, participant vessels, spectators, and the general public during the event. Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within the safety zones unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before July 11, 2012. Requests for

public meetings must be received by the Coast Guard on or before June 5, 2012.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0137 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 proposed rule, call or email Ensign John Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.R.Santorum@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–2012–0137), 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 be 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://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2012–0137'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8$^{1}/_{2}$ 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–2012–0137'' 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., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before June 5, 2012 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Basis and Purpose

The legal basis for the proposed rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the proposed rule is to ensure the safety of the swimmers, participant vessels, spectators, and the general public during the Swim Around Charleston.

Discussion of Proposed Rule

On Sunday, September 23, 2012, the Swim Around Charleston is scheduled to take place on the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The Swim Around Charleston will consist of a 10 mile swim that starts at Remley's Point on the Wando River, crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River.

The proposed rule would establish temporary moving safety zones of a 75 yard radius around Swim Around Charleston participant vessels that are officially associated with the swim on the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The temporary safety zones would be enforced from 7 a.m. until 2 p.m. on September 23, 2012. Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within the safety zones unless authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels would be able to request authorization to enter, transit through, anchor in, or remain within the safety zones by contacting the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16.

Regulatory Analyses

We developed this proposed 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

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

The economic impact of this proposed rule is not significant for the following reasons: (1) The safety zones would only be enforced for a total of seven hours; (2) the safety zones would move with the participant vessels so that once the swimmers clear a portion of the waterway, the safety zones would no longer be enforced in that portion of the waterway; (3) although persons and vessels would not be able to enter, transit through, anchor in, or remain within the safety zones without authorization from the Captain of the Port Charleston or a designated representative, they would be able to operate in the surrounding area during the enforcement period; (4) persons and vessels would still be able to enter, transit through, anchor in, or remain within the safety zones if authorized by the Captain of the Port Charleston or a designated representative; and (5) the Coast Guard would provide advance notification of the safety zones to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Wando River, the Cooper River, Charleston Harbor, and the Ashley River in Charleston, South Carolina encompassed within the safety zones from 7 a.m. until 2 p.m. on September 23, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this proposed rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would 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 proposed rule would 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Ensign John Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.R.Santorum@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

This proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed 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 preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing temporary moving safety zones as described in figure 2–1, paragraph (34)(g), of the Instruction. 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 proposes to amend 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07–0137 to read as follows:

§ 165.T07–0137 Safety Zones; Swim Around Charleston, Charleston, SC.

(a) *Regulated Areas.* The following regulated areas are moving safety zones: All waters within a 75 yard radius of Swim Around Charleston participant vessels. The Swim Around Charleston swimming race consists of a 10 mile course that starts at Remley's Point on the Wando River in approximate position 32°48′49″ N, 79°54′27″ W, crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River in approximate position 32°50′14″ N, 80°01′23″ W. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 7 a.m. until 2 p.m. on September 23, 2012.

Dated: February 2, 2012.

M.F. White,

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

[FR Doc. 2012–5970 Filed 3–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0097]

RIN 1625–AA00

Safety Zone, Temporary Change for Recurring Fireworks Display Within the Fifth Coast Guard District, Pamlico River and Tar River; Washington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a temporary change to the enforcement period and location of safety zone regulations for a recurring fireworks display within the Fifth Coast Guard District. This regulation applies to two recurring fireworks display events that take place at Washington, NC. Safety zone regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Pamlico River and Tar River near Washington, NC, during the event.

DATES: Comments and related material must be received by the Coast Guard on or before April 12, 2012.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0097 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 proposed rule, call or email Chief Warrant Officer Joseph Edge, Prevention Department, Coast Guard Sector North Carolina, Atlantic Beach, NC; telephone 252–247–4525, email *Joseph.M.Edge@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: The Coast Guard anticipates that this proposed rule, when final, will be effective from June 7, 2012, until July 8, 2012, and enforced on the specific dates provided in the amendatory instructions in this document.

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–2012–0097), 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 be 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://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2012–0097'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change 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–2012–0097'' 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., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before March 21, 2012, using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Fireworks display events are frequently held on or adjacent to navigable waters within the boundary of the Fifth Coast Guard District. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

This regulation temporarily changes the enforcement period and geographic location for a safety zone for two annually recurring fireworks events, described at (d)(7) of the Table to 33 CFR 165.506, that are normally scheduled to occur each year on the second Saturday in June and on the first Saturday after July 4th.

On June 8, 2012 and July 4, 2012, the Town of Washington, NC will sponsor their annual fireworks events. These events will take place in Washington, NC on the waters of the Pamlico River. The regulation at 33 CFR 165.506 is enforced annually for this event. Also, a fleet of spectator vessels is expected to gather near the event site to view the fireworks. To provide for the safety of participants, spectators, and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area from 7:30 p.m. to 10 p.m. on June 8, 2012 and July 4, 2012. The regulation at 33 CFR 165.506 will be enforced for the duration of the event. Vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

Discussion of Proposed Rule

The Coast Guard is temporarily changing the enforcement period and geographic location of the safety zone for these recurring events within the Fifth Coast Guard District. This regulation applies to only the fireworks events listed at (d)7 in the Table to § 165.506.

The Table to § 165.506, event (d)7, establishes the enforcement date and geographic location for the fireworks events held in Washington, North Carolina. This regulation temporarily changes the enforcement location to latitude 35°32′25″ N, longitude 077°03′42″ W. The temporary safety zone will be enforced from 7:30 p.m. to 10:30 p.m. on June 8, 2012 and July 4, 2012, and will restrict general navigation in the regulated area during the event. The Town of Washington, North Carolina, which is the sponsor for these events, holds these events annually. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. These regulations are needed to control vessel traffic during

the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Analyses

We developed this proposed 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 that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

Although this proposed regulation will restrict access to the area, the effect of this rule will not be significant because: (i) the safety zone will only be in effect from 7:30 p.m. to 10 p.m. on June 8, 2012 and July 4, 2012, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to the section of the Pamlico River and Tar River, vessel traffic will be able to transit safely around the safety zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the specified portion of Pamlico River and Tar River from 7:30 p.m. to 10 p.m. on June 8, 2012 and July 4, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule will only be in effect for three and a half hours each day from 7:30 p.m. to 10 p.m. Although the safety zone will apply to a section of the Pamlico River, vessel traffic will be able to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would 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 would 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact CWO3 Joseph Edge, Waterways Management Division Chief, Sector North Carolina, at (252) 247–4525. The Coast Guard will not retaliate against small entities that question or complain about this proposed 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 (adjusted for inflation) or more in any one year. Though this proposed rule would 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 would 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 proposed 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed 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 preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**.

This proposed rule involves implementation of regulations at 33 CFR Part 165 that establish safety zones on navigable waters of the United States for fireworks events. These safety zones are enforced for the duration of fireworks display events. The fireworks are launched from or immediately adjacent to navigable waters of the United States and may have potential for negative impact on the safety or other interest of waterway users and near shore activities in the event area. The category of activities includes fireworks launched from barges at or near the shoreline that generally rely on the use of navigable waters as a safety buffer.

This proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of this instruction. This rule establishes a temporary safety zone to protect the public from fireworks fallout. An environmental analysis checklist and a preliminary 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, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. § 165.506, in the Table to § 165.506, make the following amendments:

a. Under ''(d) Coast Guard Sector North Carolina-COTP Zone,'' suspend entry 7, which will be enforced from June 7, 2012 through June 9, 2012, and from July 3, 2012 through July 8, 2012.

b. Under ''(d) Coast Guard Sector North Carolina-COTP Zone,'' add entry 14 from June 7, 2012 through July 8, 2012, which will be enforced from 7:30 p.m. to 10 p.m. on June 8, 2012 and from 7:30 p.m. to 10 p.m. on July 4, 2012, to read as follows:

§ 165.506 Safety Zones; Fifth Coast Guard District Fireworks Displays.

* * * * *

Number	Date	Location	Regulated Area
(d.) Coast Guard Sector North Carolina—COTP Zone			
*	*	*	*	*	*	*
14	June 8, 2012, July 4, 2012	Pamlico River and Tar River, Washington, NC, Safety Zone.	All waters of Pamlico River and Tar River within a 300 yard radius of latitude 35°32′25″ N, longitude 077°03′42″ W, a position located on the south-west shore of the Pamlico River, Washington, NC.

* * * * *

Dated: February 20, 2012.

Anthony Popiel,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2012–5493 Filed 3–12–12; 8:45 am]

BILLING CODE 9110–04–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1195

[Docket No. ATBCB–2012–0003]

RIN 3014–AA40

Medical Diagnostic Equipment Accessibility Standards

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of Intent to establish advisory committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces its intent to establish an advisory committee to advise the Board on matters addressed in the notice of proposed rulemaking (NPRM) published in the February 9, 2012 edition of the **Federal Register**, 77 FR 6916, on accessibility standards for medical diagnostic equipment and issues raised in the public comments on the NPRM. The Access Board requests applications from interested organizations for representatives to serve on the advisory committee.

DATES: Submit applications by April 27, 2012.

ADDRESSES: Submit applications by any of the following methods:

- *Mail or Hand Delivery/Courier:* Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111.
- *Fax:* 202–272–0081.
- *Email: pace@access-board.gov.*

FOR FURTHER INFORMATION CONTACT: Rex Pace, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Telephone: (202) 272–0023 (Voice) or (202) 272–0052 (TTY). Email address: *pace@access-board.gov.*

SUPPLEMENTARY INFORMATION: Section 510 of the Rehabilitation Act (29 U.S.C. 794f) requires the Access Board to issue accessibility standards for medical diagnostic equipment, in consultation with the Commissioner of the Food and Drug Administration. The Access Board published an NPRM in the February 9, 2012 edition of the **Federal Register**, 77 FR 6916, proposing the accessibility standards. The proposed standards contain minimum technical criteria to ensure that medical diagnostic equipment, including examination tables, examination chairs, weight scales, mammography equipment, and other imaging equipment used by health care providers for diagnostic purposes are accessible to and usable by individuals with disabilities. The proposed standards are intended to ensure, to the maximum extent possible, independent entry to, use of, and exit from such equipment by individuals with disabilities. The proposed standards do not impose any mandatory requirements on health care providers or medical device manufacturers. However, other agencies may issue regulations or adopt policies that require health care providers subject to the agency's jurisdiction to acquire accessible medical diagnostic equipment that conforms to the standards. The NPRM and information related to the proposed standards are available on the Access Board's Web site at: *http://www.access-board.gov/medical-equipment.htm.*

At its January 11, 2012 meeting, the Access Board voted to form an advisory committee (Committee) to advise the Board on matters addressed in the NPRM. The Committee will make recommendations to the Access Board on the technical criteria proposed in the NPRM and issues raised in public comments on the NPRM, including responses to the questions in the NPRM. The comment period on the NPRM ends on June 8, 2012. The Access Board will conduct a preliminary analysis of the public comments and plans to schedule the first meeting of the Committee in September 2012. The Committee is expected to hold four meetings and present a report with its recommendations to the Access Board within two months of the Committee's first meeting.

The Access Board requests applications for representatives of the following interests for membership on the Committee:

- Medical device manufacturers;
- Health care providers;
- Standards setting organizations;
- Organizations representing individuals with disabilities;
- Federal agencies; and
- Other organizations affected by the proposed standards.

The number of Committee members will be limited so that the Committee's work can be accomplished effectively. The Committee will be balanced in terms of interests represented. The Access Board encourages organizations with similar interests to submit a single application to represent their interests. Although the Committee will be limited in size, there will be opportunities for the public to present information to the Committee and to comment at each Committee meeting. Federally registered lobbyists may not be appointed to the Committee, pursuant to Presidential Memorandum dated June 18, 2010, entitled ''Lobbyists on Agency Boards and Commissions'' (*http://www.whitehouse.gov/the-press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions*).

Applications should be sent to the Access Board at the address listed at the beginning of this notice. There is no specific application form. The application should include the following information:

- Name of the organization;
- Interests represented by the organization;
- Person who will represent the organization and an alternate, and the title, address, telephone number, and email address for the representative and alternate;
- Description of the representative's qualifications, including engineering, technical, and design expertise; knowledge of making medical diagnostic equipment accessible to individuals with disabilities; or other expertise related to the rulemaking; and
- Certification that the representative and alternate are not federally registered lobbyists.

Committee members will not be compensated for their service. The Access Board may, at its discretion, pay travel expenses for a limited number of persons who would otherwise be unable to participate on the Committee. Committee members will serve as representatives of their organizations, not as individuals. Committee members will not be considered special government employees and will not be required to file confidential financial disclosure reports.

After the applications have been reviewed, the Access Board will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. The Committee will operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2. All Committee meetings will be held at the Access Board's office in Washington, DC. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least 15 days in advance of the meeting. Records will be kept of each meeting and made available for public inspection.

David Capozzi,

Executive Director.

[FR Doc. 2012–5964 Filed 3–12–12; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN92

Vet Center Services

AGENCY: Department of Defense and Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to establish in regulation the readjustment counseling currently provided in VA's Vet Centers to certain veterans of the Armed Forces and members of their immediate families, and to implement provisions of the Caregivers and Veterans Omnibus Health Services Act of 2010 (the 2010 Act) regarding readjustment counseling. Although for several decades VA has provided readjustment counseling to veterans and members of their immediate families, a regulation is now explicitly required by the 2010 Act. The

2010 Act makes certain current members of the Armed Forces who served on active duty in Operation Enduring Freedom or Operation Iraqi Freedom eligible for the readjustment counseling that VA currently provides to veterans and members of their immediate families. In addition, the proposed regulation would authorize Vet Centers to provide referral and advice to individuals who are not otherwise eligible for such counseling, and served in a theater of combat operations or in an area during a period of hostilities in that area, in accordance with the 2010 Act.

DATES: Comments must be received by VA on or before May 14, 2012.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AN92, Vet Center Services.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory Harms, Readjustment Counseling Service (15), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461–6525. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1712A, VA is authorized to establish Vet Centers that must furnish counseling to certain veterans upon request, who are clearly identified by the statute, to assist such veterans in readjusting to civilian life. We have consistently interpreted this authority to provide readjustment counseling broadly to mean those types of counseling that would assist in readjusting to life as part of a family, reentering civilian employment, and referrals for medical care or substance abuse. For decades, VA has implemented this authority without regulation based on statutory authority. On May 5, 2010, Congress provided in section 401 of the 2010 Act that ''[a]ny member of the Armed Forces, including a member of the National Guard or Reserve, who serves on active duty in the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom is eligible'' for the services provided to veterans under 38 U.S.C. 1712A, ''regardless of whether or not the member is currently on active duty in the Armed Forces at the time of receipt of counseling and services under'' section 1712A. Public Law 111–163, sec. 401(a) and (b). The law also provides that eligibility for these members of the Armed Forces ''shall be subject to such regulations as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly prescribe for purposes of [section 401].'' This proposed rule would initiate the rulemaking requirement prescribed by Congress. Although VA has provided section 1712A benefits without a regulation in the past, in the interests of clarity and completeness the proposed regulation would cover the provision of benefits to veterans under section 1712A as well as benefits provided under section 401 of the 2010 Act.

In addition, section 402 of the 2010 Act added a new 38 U.S.C. 1712A(c), which requires VA to provide certain referral services and advice to an ''individual who has been discharged or released from active military, naval, or air service but who is not otherwise eligible'' for readjustment counseling. The proposed rule would implement this statutory authority.

Lastly, section 304 of the 2010 Act authorizes readjustment counseling for the immediate family of Operation Enduring Freedom and Operation Iraqi Freedom veterans for a period of 3 years after such veterans return from deployment. This counseling is available to help the readjustment of such veterans to civilian life or to assist the readjustment of the family following the return of such veterans.

Proposed paragraph (a) would concern eligibility for readjustment counseling. Pursuant to the requirements of 38 U.S.C. 1712A(a)(1)(A) and in accordance with current practice, VA provides benefits ''[u]pon the request'' of an eligible veteran. There are no forms or claims required to obtain this benefit—individuals need only make an oral request for readjustment counseling upon presenting at the Vet Center.

Subsections (a)(1) and (2) of 38 U.S.C. 1712A set forth the categories of veterans who are eligible for benefits under the statute. We would greatly simplify the language describing them. First, 38 U.S.C. 1712A(a)(1)(B)(i)(I) requires VA to provide readjustment counseling to any ''veteran who served on active duty * * * in a theater of combat operations (as determined by the Secretary [of VA] in consultation with the Secretary of Defense) during the Vietnam era.'' Second, 38 U.S.C. 1712A(a)(1)(B)(i)(II) requires VA to provide readjustment counseling to veterans who served ''after May 7, 1975,'' which is the ending date of the Vietnam era (*see* 38 U.S.C. 101(29)), ''in an area at a time during which hostilities occurred in that area.'' Third, 38 U.S.C. 1712A(a)(2)(A) provides that VA ''may furnish'' benefits to veterans other than those discussed above—for whom VA ''shall furnish'' benefits—who ''served in the active military, naval, or air service in a theater of combat operations * * * during a period of war, or in any other area during a period in which hostilities * * * occurred in such area.'' We note that VA has consistently provided benefits to such veterans in accordance with the Secretary's discretion under this provision.

The statute then defines ''hostilities'' solely for the purpose of veterans whose eligibility is established under section 1712A(a)(2)(A), as ''an armed conflict in which the members of the Armed Forces [we]re subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary [of VA] in consultation with the Secretary of Defense.'' 38 U.S.C. 1712A(a)(2)(B). This definition is a general, basic, and commonly understood meaning of the term ''hostilities.'' We do not know, and the legislative history is silent as to, why Congress chose to make this definition explicitly applicable to the use of the term ''hostilities'' in section 1712A(a)(2)(A), but did not address the meaning of the same term as it is used in section 1712A(a)(1)(B)(i)(II). In repeated consultations with DoD over the decades during which we have been providing benefits under this section, VA has been unable to identify a reason that the definition of ''hostilities'' in section 1712A(a)(2)(A) should be different from the definition in the earlier section. Again, the definition provided in 38 U.S.C. 1712A(a)(2)(B) is clear and encompasses the only meaning that we believe could have been intended by the use of the word ''hostilities.'' Hence, we have not in practice distinguished between the ''hostilities'' requirements in 1712A(a)(1) and (a)(2), and do not intend to do so in the proposed rule.

Because we do not distinguish between the ''hostilities'' described in sections 1712A(a)(1) and (a)(2), and

because we will continue to provide readjustment counseling in accordance with the broader, discretionary authority in section 1712(a)(2)(A), the above-described eligibility criteria for readjustment counseling under section 1712A can be simplified to read as follows:

(1) A veteran who served on active duty in a theater of combat operations during a period of war.

(2) A veteran who served on active duty in an area in which hostilities occurred, or in combat against a hostile force during a period of hostilities.

In addition to the above-described veterans, we propose to include three additional categories of individuals who would be authorized to receive benefits under the proposed rule. Proposed paragraph (a)(3) would establish eligibility for any ''veteran who served on active duty during the Vietnam era who sought or was provided counseling under 38 U.S.C. 1712A before January 1, 2004.'' This would be a straightforward application of 38 U.S.C. 1712A(a)(1)(B)(ii), which extends eligibility to veterans who served during the Vietnam era but did not serve in a combat theater or an area in which hostilities occurred, so long as they sought counseling before the year 2004.

In proposed paragraph (a)(4) we would implement section 401 of the 2010 Act, which states that ''[a]ny member of the Armed Forces, including a member of the National Guard or reserve, who serves on active duty in the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom is eligible for readjustment counseling and related mental health services under [38 U.S.C. 1712A].'' We would extend eligibility to such active duty servicemembers and offer the same benefits as those provided to veterans under section 1712A. In our view, section 401 of the 2010 Act does not contemplate providing a lesser benefit to eligible active duty servicemembers. Additionally, after consultation with the Department of Defense, VA considers Operation New Dawn to be part of the same contingency operation that was formerly called Operation Iraqi Freedom. Therefore, VA will consider participants in Operation New Dawn to be eligible for benefits under the legal authorities pertaining to Operation Iraqi Freedom.

Section 304 of the 2010 Act specifically requires VA to provide readjustment counseling to members of the immediate family of a veteran who served in Operation Enduring Freedom or Operation Iraqi Freedom (OEF/OIF) during the 3-year period beginning on the date of the return of such veteran from deployment in Operation Enduring Freedom or Operation Iraqi Freedom to assist in ''the readjustment of such veterans to civilian life,'' the recovery of such veterans from an injury or illness incurred during deployment, and ''the readjustment of the family following the return of such veterans.''

VA's long-standing interpretation of 38 U.S.C. 1712A has been that marriage and family counseling is a necessary component of counseling provided to a veteran to assist in readjusting to civilian life. The support of a family member and spouse is essential to the veteran's ability to successfully transition to civilian life. By receiving readjustment counseling, such family member and spouse is better able to cope with the veteran's readjustment process, and understand how to better assist the veteran, regardless of whether or not the veteran is currently receiving readjustment counseling of his or her own accord. Moreover, in cases where a veteran is provided mental health services as a result of a referral from a Vet Center, VA is specifically authorized to provide mental health services that ''include such consultation, counseling, training, services, and expenses as are described in [38 U.S.C.] 1782 and 1783.'' Section 1782, in turn, provides independent authority for VA to provide counseling for the family members of veterans who are receiving VA treatment, and we have recently clarified this authority in 38 CFR 71.50. In addition, members of the veteran's immediate family qualify for bereavement counseling under section 1783, if the family member was already in receipt of counseling services under section 1782. Unlike section 304 of the 2010 Act, these statutes are not limited to OEF/OIF veterans. Moreover, as further explained below in our definition of the readjustment counseling services that VA currently provides through our Vet Centers, VA is already providing many readjustment counseling services to members of a veteran's immediate family, without the limitations established in section 304. For these reasons, we do not believe that Congress intended that section 304 should be interpreted to restrict readjustment counseling to members of the immediate family of veterans who served in OEF/OIF. We, therefore, propose to simply state in paragraph (a)(5) that VA will provide readjustment counseling to ''[m]embers of the immediate family of a veteran or servicemember who is eligible for readjustment counseling under paragraphs (a)(1), (2), (3) or (4) of this section.'' By using a broad statement, we would implement the authority in section 304, while recognizing VA's continuing duty to provide the full range of readjustment counseling services to other veterans' family members under the authorities described above and in accordance with long-standing VA practice.

VA is required to determine if a veteran served on active duty in a theater of combat operations under this authority ''in consultation with the Secretary of Defense.'' *See* 38 U.S.C. 1712A(a)(1)(B)(i)(I), (a)(2)(A), (a)(2)(B). Proposed paragraph (b)(2) would list the various types of evidence VA will accept as evidence of service in a theater of combat operations. The list includes every category of medal that can be used to establish eligibility, with parenthetical examples of the most common specific medals within certain categories. However, this list cannot be exhaustive, as additional medals may be added at any time. The list is based on years of practice and cooperation with the Department of Defense (DoD), and all veterans who serve in either a combat theater or an area where hostilities occur, and receive one of the medals listed in proposed paragraph (b) would qualify. We would include a ''catch-all'' category at the end of the paragraph for ''other combat theater awards'' established by public law or executive order. VA will continue to actively consult with DoD on this issue and base eligibility on additional medals where appropriate.

Proposed paragraph (b)(1) would state that veterans may submit an annotated DD–214 indicating service in a designated theater of combat operations.

Proposed paragraph (b)(3) would allow VA to accept receipt of Hostile Fire or Imminent Danger Pay, commonly known as ''combat pay,'' or combat tax exemption after November 11, 1998, as proof that the veteran or servicemember served on active duty in a theater of combat operations.

Proposed paragraph (b)(4) would also allow VA to independently verify appropriate service in coordination with DoD. Although persons seeking counseling generally submit a DD–214 and other appropriate documentation showing receipt of a medal, VA may act independently when the veteran or servicemember lacks documentation, or when a veteran states that it will be difficult for him or her to obtain such documentation.

Proposed paragraph (c) would implement section 402 of the 2010 Act, which added 38 U.S.C. 1712A(c), which reads as follows:

(c) Upon receipt of a request for counseling under [38 U.S.C. 1712A] from any individual

who has been discharged or released from active military, naval, or air service but who is not otherwise eligible for such counseling, the Secretary [of VA] shall—

(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside [VA]; and

(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval or air service, and to [VA], for review of such individual's discharge or release from such service.

38 U.S.C. 1712A(c).

The benefit authorized by section 1712A, i.e., ''counseling to the veteran to assist the veteran in readjusting to civilian life,'' and by section 401 of the 2010 Act (''readjustment counseling'') is not defined by statute. In proposed paragraph (d), we would state that ''readjustment counseling'' includes but is not limited to: psychosocial assessment, individual counseling, group counseling, marital and family counseling for military-related readjustment issues, substance abuse assessments, medical referrals, referral for additional VA benefits, employment assessment and referral, military sexual trauma counseling and referral, and outreach. We would add that a ''psychosocial assessment'' means the holistic assessing of an individual's psychological, social, and functional capacities as it relates to their readjustment from a combat theater. We note that VA is authorized to provide these services via Vet Center counselors, and to train such counselors, by 38 U.S.C. 1712A(d).

Proposed paragraph (e) would establish the confidentiality of records maintained under this section. Benefits provided under the proposed rule, in accordance with current practice, would be provided exclusively by VA Vet Centers, which operate independently of any VA medical center or DoD. In accordance with applicable authorities, including 5 U.S.C. 552a, 38 U.S.C. 5701 and 7332, 45 CFR parts 160 and 164, and VA's System of Records 64VA15, ''Readjustment Counseling Service Vet Center Program,'' most recently amended at 74 FR 29019 (June 18, 2009), VA Vet Center records will not be disclosed to any VA medical personnel or to DoD without the express, signed authorization of the veteran or servicemember, or a specific exception permitting their release. We believe that it is important to state this in the proposed rule to allay any fears, particularly fears held by active duty servicemembers, that their records regarding readjustment counseling will be shared with DoD without proper legal authority.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB) as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, or tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule includes a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking to OMB for review. OMB assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed § 17.2000(b) contains a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to: the Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AN92.''

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed amendments to 38 CFR part 17 contain collections of information under the Paperwork Reduction Act for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

Title: Readjustment counseling.

Summary of collection of information: The proposed rule at § 17.2000(b) would allow a veteran to submit a copy of a DD–214 or other appropriate documentation as evidence that the veteran received a medal that would serve as the basis for establishing his or her eligibility to receive readjustment counseling.

Description of the need for information and proposed use of information: Receipt of one of the listed medals will be accepted as evidence to establish eligibility for readjustment counseling.

Description of likely respondents: Veterans or active duty service members.

Estimated number of respondents per year: 57,000.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: No more than 1 hour to locate and scan the appropriate documentation into the veteran's Record.

Regulatory Flexibility Act

The Secretary of Veterans Affairs and the Secretary of Defense hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not cause a significant economic impact on health care providers, suppliers, or other small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Veterans.

Approved: November 15, 2011.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

Approved: February 29, 2012.

Jo Ann Rooney,

Acting Under Secretary of Defense, Personnel & Readiness, Department of Defense.

For the reasons set forth in the preamble, 38 CFR part 17 is proposed to be amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

2. Add an undesignated center heading and § 17.2000 to read as follows:

Vet Centers

§ 17.2000 Vet Center services.

(a) *Eligibility for readjustment counseling.* Upon request, VA will provide readjustment counseling to the following individuals:

(1) A veteran who served on active duty in a theater of combat operations during a period of war.

(2) A veteran who served on active duty in an area in which hostilities occurred, or in combat against a hostile force during a period of hostilities.

(3) A veteran who served on active duty during the Vietnam era who sought or was provided counseling under 38 U.S.C. 1712A before January 1, 2004.

(4) Any member of the Armed Forces, including a member of the National Guard or reserve, who served on active duty in the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom.

(5) Members of the immediate family of a veteran or servicemember who is eligible for readjustment counseling under paragraphs (a)(1), (2), (3) or (4) of this section.

(b) *Proof of eligibility.* For the purposes of this section, proof of service in a theater of combat operations or in an area during a period of hostilities in that area will be established by:

(1) A DD Form 214 (Certificate of Release or Discharge from Active Service) containing notations of service in a designated theater of combat operations; or

(2) Receipt of one of the following medals: The Armed Forces Expeditionary Medal, Service Specific Expeditionary Medal (e.g., Navy Expeditionary Medal), Combat Era Specific Expeditionary Medal (e.g., the Global War on Terrorism Expeditionary Medal), Campaign Specific Medal (e.g., Vietnam Service Medal or Iraq Campaign Medal), or other combat theater awards established by public law or executive order; or

(3) Proof of receipt of Hostile Fire or Imminent Danger Pay (commonly referred to as ''combat pay'') or combat tax exemption after November 11, 1998.

(4) Independent verification by VA in coordination with the Department of Defense.

(c) *Referral and advice.* Upon request, VA will provide to an individual who has been discharged or released from active military, naval, or air service, but who is not otherwise eligible for such counseling, and meets the eligibility requirements of paragraph (a) of this section, the following:

(1) Referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside VA; and

(2) If pertinent, advise such individual of such individual's rights to apply to:

(i) The appropriate military, naval or air service for review of such individual's discharge or release from such service; and

(ii) VA for a VA benefits eligibility determination under 38 CFR 3.12.

(d) *Readjustment counseling defined.* For the purposes of this section, readjustment counseling includes but is not limited to: psychosocial assessment, individual counseling, group counseling, marital and family counseling for military-related readjustment issues, substance abuse assessments, medical referrals, referral for additional VA benefits, employment assessment and referral, military sexual trauma counseling and referral, and outreach. A ''psychosocial assessment''

under this paragraph means the holistic assessing of an individual's psychological, social, and functional capacities as it relates to their readjustment from combat theaters.

(e) *Confidentiality.* Benefits under this section are furnished solely by VA Vet Centers, which maintain confidential records independent from any other VA or Department of Defense medical records and which will not disclose such records without either the veteran or servicemember's voluntary, signed authorization, or a specific exception permitting their release. For more information, see 5 U.S.C. 552a, 38 U.S.C. 5701 and 7332, 45 CFR parts 160 and 164, and VA's System of Records 64VA15, ''Readjustment Counseling Service Vet Center Program.''

(Authority: 38 U.S.C. 501 and 1712A; Pub. L. 111–163, sec. 401)

[FR Doc. 2012–6004 Filed 3–12–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2012–0076; A–1–FRL–9646–2]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Determination of Attainment of the 1997 Ozone Standard for the Eastern Massachusetts Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing two separate and independent determinations regarding the Boston-Lawrence-Worcester (Eastern Massachusetts) moderate 1997 8-hour ozone nonattainment area. First, based on complete, quality-assured and certified air monitoring data for 2007–2009, EPA is proposing to determine that the Eastern Massachusetts nonattainment area attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone as of the area's applicable attainment date, June 15, 2010. Second, EPA is proposing to determine that Eastern Massachusetts has attained the 1997 8-hour ozone NAAQS, based upon complete, quality-assured and certified ambient air monitoring data that show the area monitored attainment of the 1997 8-hour ozone NAAQS for the 2008–2010 and 2009–2011 monitoring periods. If this latter proposed determination is made final, under the provisions of EPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS. EPA is proposing these determinations under the Clean Air Act.

DATES: Written comments must be received on or before April 12, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2012–0076 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2012–0076,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2012–0076. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912, telephone number (617) 918–1664, fax number (617) 918–0664, email *Burkhart.Richard@epa.gov.*

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

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

I. What actions is EPA taking?
II. What is the effect of these actions?
III. What is the background for these actions?
IV. What is EPA's analysis of the relevant air quality data?
V. Proposed Actions
VI. Statutory and Executive Order Reviews

I. What actions is EPA taking?

EPA is proposing two separate and independent determinations. First,

pursuant to section 181(b)(2)(A) of the Clean Air Act (CAA), and based upon complete, quality assured and certified air monitoring data for 2007–2009, EPA is proposing to determine that the Boston-Lawrence-Worcester (Eastern Massachusetts) moderate 8-hour ozone nonattainment area (hereafter ''the Eastern Massachusetts area'') attained the 1997 8-hour NAAQS for ozone by its applicable attainment date, June 15, 2010. The Eastern Massachusetts nonattainment area consists of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk and Worcester Counties. Second, EPA is proposing to determine that the area has attained the 1997 8-hour standard based upon complete, quality-assured and certified ambient air monitoring data showing attainment of the 1997 ozone NAAQS for the 2008–2010 and 2009–2011 monitoring periods.

II. What is the effect of these actions?

First, under section 181(b)(2)(A) of the CAA and the provisions of EPA's ozone implementation rule (see 40 CFR Section 51.902(a)), EPA is proposing to determine that the Eastern Massachusetts area attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010. The effect of a final determination of attainment by the area's attainment date would be to discharge EPA's obligation under section 181(b)(2)(A), and to establish that, in accordance with that section, the area would not be reclassified for failure to attain by its applicable attainment date. Second, EPA is proposing to determine that the area continues to attain the 1997 8-hour ozone standard based on the most recent three years of complete, quality-assured monitoring data.

If this latter proposed determination is made final, under the provisions of EPA's ozone implementation rule (see 40 CFR Section 51.918), the requirements for the Eastern Massachusetts moderate ozone nonattainment area to submit an attainment demonstration, a reasonable further progress plan, section 172(c)(9) contingency measures, and any other planning State Implementation Plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS would be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. This proposed action, if finalized, would not constitute a redesignation to attainment under the Clean Air Act (CAA) section 107(d)(3), because we would not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The classification and designation status of the area would remain moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment.

If this determination of attainment is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 8-hour ozone standard, the basis for the suspension of these requirements would no longer exist, and the area would thereafter have to address the pertinent CAA requirements.

III. What is the background for these actions?

On April 30, 2004 (69 FR 23857), EPA designated as nonattainment any area that was violating the 1997 8-hour ozone NAAQS, based on the three most recent years (2001–2003) of air quality data. The Eastern Massachusetts area was designated as a moderate ozone nonattainment area. Recent air quality data indicate that the Eastern Massachusetts area is attaining the 1997 8-hour ozone standard.

IV. What is EPA's analysis of the relevant air quality data?

The EPA has reviewed the ambient air monitoring data for ozone, consistent with the requirements contained in 40 CFR Part 50 and recorded in the Air Quality Data System (AQS) database, for Eastern Massachusetts, from 2007 through 2011.

Under EPA regulations at 40 CFR Part 50, the 1997 8-hour ozone standard is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 parts per million (ppm) (i.e., 0.084 ppm, based on the rounding convention in 40 CFR Part 50, Appendix I). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm at each monitoring site within the area, then the area is meeting the NAAQS. Also, the data completeness requirement is met when the 3-year average of the percent of days with valid ambient monitoring data is more than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR Part 50.

Table 1 shows the fourth-highest daily maximum 8-hour average ozone concentrations for the fourteen Eastern Massachusetts area monitors for the years 2007–2009, and the ozone design values for these same monitors based on 2007–2009. Tables 2 and 3 show similar data for the 2008–2010 and 2009–2011 monitoring periods.

TABLE 1—2007–2009 FOURTH-HIGH 8-HOUR AVERAGE OZONE CONCENTRATIONS AND 2007–2009 DESIGN VALUES (PARTS PER MILLION) IN THE EASTERN MASSACHUSETTS AREA

Site ID	Site location	4th High 2007	4th High 2008	4th High 2009	Design value (07–09)
250250041	Boston-Long Island *	0.072	0.072	0.075	0.073
250250042	Boston-Roxbury	0.071	0.062	0.062	0.065
250170009	Chelmsford	0.087	0.069	0.068	0.074
250051002	Fairhaven	0.075	0.080	0.069	0.074
250095005	Haverhill	0.089	0.073	0.070	0.077
250092006	Lynn	0.088	0.078	0.073	0.079
250213003	Milton	0.088	0.076	0.071	0.078
250094004	Newbury *	0.086	0.075	0.068	0.076
250094005	Newburyport **	.....	.....	.....	.....
250070001	Oak Bluffs-Martha's Vineyard *	0.077	0.083	0.071	0.077
250171102	Stow	0.086	0.074	0.071	0.077
250010002	Truro	0.082	0.075	0.071	0.076
250270024	Uxbridge (site began in 2009)	.....	.....	0.071	.....
250270015	Worcester	0.089	0.081	0.077	0.082

TABLE 2—2008–2010 FOURTH-HIGH 8-HOUR AVERAGE OZONE CONCENTRATIONS AND 2008–2010 DESIGN VALUES (PARTS PER MILLION) IN THE EASTERN MASSACHUSETTS AREA

Site ID	Site location	4th High 2008	4th High 2009	4th High 2010	Design value (08–10)
250250041	Boston-Long Island *	0.072	0.075	0.070	0.072
250250042	Boston-Roxbury	0.062	0.062	0.063	0.062
250170009	Chelmsford	0.069	0.068	0.069	0.068
250051002	Fairhaven	0.080	0.069	0.077	0.075
250095005	Haverhill	0.073	0.070	0.071	0.071
250092006	Lynn	0.078	0.073	0.072	0.074
250213003	Milton	0.076	0.071	0.073	0.073
250094004	Newbury* (moved to Newburyport)	0.075	0.068	.....	.....
250094005	Newburyport **	.....	.....	0.066	.....
250070001	Oak Bluffs-Martha's Vineyard *	0.083	0.071	0.080	0.078
250171102	Stow	0.074	0.071	0.069	0.071
250010002	Truro	0.075	0.071	0.078	0.074
250270024	Uxbridge (site began in 2009)	.....	0.071	0.071	.....
250270015	Worcester	0.081	0.077	0.070	0.076

TABLE 3—2009–2011 FOURTH-HIGH 8-HOUR AVERAGE OZONE CONCENTRATIONS AND 2009–2011 DESIGN VALUES (PARTS PER MILLION) IN THE EASTERN MASSACHUSETTS AREA

Site ID	Site location	4th High 2009	4th High 2010	4th High 2011	Design value (09–11)
250250041	Boston-Long Island*	0.075	0.070	0.066	0.070
250250042	Boston-Roxbury	0.062	0.063	0.060	0.061
250170009	Chelmsford	0.068	0.069	0.064	0.067
250051002	Fairhaven	0.069	0.077	0.076	0.074
250095005	Haverhill	0.070	0.071	0.066	0.069
250092006	Lynn	0.073	0.072	0.069	0.071
250213003	Milton	0.071	0.073	0.073	0.072
250094004	Newbury* (moved to Newburyport)	0.068	.....	.....	.....
250094005	Newburyport **	.....	0.066	0.066	.....
250070001	Oak Bluffs-Martha's Vineyard *	0.071	0.080	0.078	0.076
250171102	Stow	0.071	0.069	0.063	0.067
250010002	Truro	0.071	0.078	0.068	0.072
250270024	Uxbridge (site began in 2009)	0.071	0.071	0.068	0.070
250270015	Worcester	0.077	0.070	0.065	0.070

* Due to equipment malfunction at Oak Bluffs in 2009, sample collection error at Boston-Long Island in 2007 and monitor relocation at Newbury in 2009, the data capture percentages for these ozone monitors were below EPA data capture requirements for the 1997 8-hour ozone NAAQS for those years. The Massachusetts Department of Environmental Protection performed a missing data analysis for each site with low data capture in accordance with the regulatory requirements of 40 CFR Part 50, Appendix I. The Massachusetts missing data analysis used a combination of meteorology and air quality data for ozone monitors near the sites with low data capture, for the unmonitored days, to decisively conclude that on the days with missing ozone data, the ozone levels, if captured, would have been below the 1997 8-hour ozone NAAQS. Thus, by rule, these days can be counted for the purpose of meeting the data completeness requirement. The missing data analysis for these sites was approved by EPA on December 15, 2011. The approval letter is in the Docket for this action.

** Newburyport began in 2009, but not enough data collected in 2009 to have a valid fourth high.

EPA's review of these data indicates that the Eastern Massachusetts area attained the 1997 8-hour ozone NAAQS and met its applicable attainment deadline, based on 2007–2009 data. Our review also shows that the area continues to attain the standard, based on complete, quality-assured and certified data for the 2008–2010 and 2009–2011 monitoring periods.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters pertaining to this rulemaking action. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

V. Proposed Actions

EPA is proposing two separate and independent determinations. First, under section 181(b)(2)(A) of the Clean Air Act and the provisions of EPA's ozone implementation rule (see 40 CFR Section 51.902(a)), based upon complete, quality-assured and certified data for 2007–2009, EPA is proposing to determine that the Eastern Massachusetts 1997 8-hour ozone moderate nonattainment area attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010. Second, EPA is proposing to determine that the Eastern Massachusetts area has attained the 1997 8-hour ozone standard, based on complete, quality-assured data for the 2008–2010, and 2009–2011 monitoring periods. As provided in 40 CFR Section 51.918, if EPA finalizes this determination, it would suspend the requirements for Massachusetts to submit planning SIPs related to attainment of the 1997 8-hour ozone NAAQS for this area, for so long as the area continues to attain the standard.[1]

[1] Massachusetts submitted an attainment demonstration and contingency measures for this area on Jan. 31, 2008. EPA has not taken action on the attainment demonstration, but has proposed approval of the reasonable further progress plan and contingency measures. (See 75 FR 57221, Sept. 10, 2010.)

VI. Statutory and Executive Order Reviews

These actions propose to make determinations of attainment based on air quality, and would, if finalized, result in the suspension of certain Federal requirements, and/or would not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: February 29, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2012–6030 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2011–0118; A–1–FRL–9644–5]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Reasonably Available Control Technology (RACT) for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve four State Implementation Plan (SIP) revisions submitted by the Rhode Island Department of Environmental Management (RI DEM). These revisions demonstrate that the State of Rhode Island meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA) with respect to the 1997 8-hour ozone standard. The intended effect of this action is to propose approval of Rhode Island's RACT demonstration and the submitted regulations. Additionally, EPA is proposing to approve Rhode Island's negative declarations for several categories of VOC sources. This action is being taken in accordance with the CAA.

DATES: Written comments must be received on or before April 12, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2011–0118 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* 617–918–0047.
4. *Mail:* ''EPA–R01–OAR–2011–0118,'' Anne Arnold, U.S. Environmental Protection Agency, New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Mail Code OEP05–02, Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, U.S. Environmental Protection Agency, New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Mail Code OEP05–02, Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, U.S. Environmental Protection Agency, New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Mail Code OEP05–02, Boston, MA 02109–3912, telephone 617–918–1584, facsimile 617–918–0584, email *mackintosh.david@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: February 9, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2012–5763 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0960; FRL–9644–1]

Notice of Availability: Draft Documents Related to the Development of Emissions Estimating Methodologies for Broiler Animal Feeding Operations and Lagoons and Basins for Swine and Dairy Animal Feeding Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is requesting public comment on draft documents titled, ''Development of Emissions Estimating Methodologies for Broiler Animal Feeding Operations'' and ''Development of Emissions Estimating Methodologies for Lagoons and Basins at Swine and Dairy Animal Feeding Operations.'' These documents contain EPA's draft emissions estimating methodologies for determining daily and annual emissions from a broiler chicken animal feeding operation and from a lagoon or basin located at a swine or dairy animal feeding operation.

DATES: Comments must be received on or before June 11, 2012.

ADDRESSES: Submit your information, identified by Docket ID Number EPA–HQ–OAR–2010–0960, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov: Follow the online instructions for submitting data.

Email: Send your information via electronic mail to *a-and-r-docket@epa.gov,* Attention Docket ID Number EPA–HQ–OAR–2010–0960.

Facsimile: Fax your comments to (202) 566–1741, Attention Docket ID Number EPA–HQ–OAR–2010–0960.

Mail: Send your information to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID Number EPA–HQ–OAR–2010–0960. Please include two copies. We request that a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**).

Hand Delivery: Deliver your information to: EPA Docket Center (EPA/DC), EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460, Attention Docket ID Number EPA–HQ–OAR–2010–0960. Such deliveries are only accepted during the normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays) and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your data and information to Docket ID Number EPA–HQ–OAR–2010–0960. The EPA's policy is that all information received will be included in the public docket and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the submission includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your information. If you send an email directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the information that is placed in the public docket and made available on the Internet. If you submit the electronic data and information, the EPA recommends that you include your name and other contact information in the body of your information and with any disk or CD–ROM you submit. If the EPA cannot read your information due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your information. Electronic files should avoid the use of special characters or any form of encryption and should be free of any defects or viruses.

Docket: The EPA has established a docket for this action under Docket ID Number EPA–HQ–OAR–2010–0960. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA's Docket Center (EPA/DC), EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA's Docket Center is (202) 566–1742.

Submitting CBI: Do not submit information you consider to be CBI electronically through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: Mr. Larry Elmore, c/o Office of Air Quality Planning and Standards Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID Number EPA–HQ–OAR–2010–0960. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the information claimed as CBI, a copy of the information that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Elmore, Natural Resources Group, Sector Policies and Programs Division, (E143–03), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5433; Facsimile number: (919) 541–3470; email address: *elmore.larry@epa.gov.*

SUPPLEMENTARY INFORMATION: In January 2005, the EPA announced the voluntary Air Compliance Agreement (Agreement) with the animal feeding operations (AFO) industry. Under the Agreement, participating AFOs were responsible for funding the National Air Emissions Monitoring Study (NAEMS)—a 2-year study of animal confinement structures and manure storage and treatment units in the broiler chicken, egg-layer, swine and dairy industries. The study's purpose was to gather emissions data that the EPA could use to develop emissions estimating methodologies (EEMs). To provide a framework for the NAEMS, AFO industry experts, university and government scientists, and other stakeholders collaborated to develop a comprehensive monitoring plan. The study was designed to generate scientifically credible data to characterize emissions from the participating animal sectors. The

NAEMS began in the summer of 2007 and consisted of 24 monitoring sites located in nine states. In addition, Tyson Foods, Inc. collected data from two broiler sites, which are also included in the NAEMS dataset. Academic researchers from various universities conducted the NAEMS study with EPA oversight. At the animal confinement sites, the study was designed to collect process and emissions data for ammonia (NH_3), hydrogen sulfide (H_2S), total suspended particulate matter (TSP), particulate matter with aerodynamic diameters less than 10 micrometers (PM_{10}), PM with aerodynamic diameters less than 2.5 micrometers ($PM_{2.5}$), and volatile organic compounds (VOCs). For lagoons and basins, the study was designed to collect NH_3, H_2S and VOCs.

In accordance with the Agreement's monitoring protocol, the EPA developed draft EEMs for animal housing structures and manure storage and treatment units using the emissions and process data collected under the NAEMS and other relevant information. Once the draft EEMs are final, the EPA expects that the AFO industry will use the EEMs to estimate daily and annual emissions for use in determining AFOs' regulatory responsibilities under the Clean Air Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the Emergency Planning and Community Right-to-Know Act.

The draft documents describe the sites monitored, the statistical methodology used to analyze the data, and the EEMs.

The agency is requesting comment on the draft documents with particular emphasis on the statistical methodology used to develop the emissions estimating methodologies. Please submit comments within 90 days of the date of this notice. Electronic copies of the documents are available at *www.epa.gov/airquality/agmonitoring.*

On February 17, 2012, EPA's Office of Air Quality Planning and Standards sent a memorandum to the EPA Science Advisory Board Staff Office titled, ''Animal Feeding Operations Air Emissions Estimating Methodologies from the National Air Emissions Monitoring Study'' asking the Science Advisory Board to review and provide comments on these documents.

In response to EPA's memorandum, the EPA's Science Advisory Board has formed an expert panel to review and provide comments on these documents. The Science Advisory Board review process is an independent process. Information on submitting comments to the Science Advisory Board can be found at *www.epa.gov/sab.* Additional information about the Science Advisory Board process can be found at: *http://yosemite.epa.gov/sab/sabproduct.nsf/0/ae6639dd6b79360e852579a4004e5529!OpenDocument.* The Science Advisory Board anticipates multiple meetings of the expert panel to cover the documents in this notice.

The EPA will consider public comments received in response to this notice, public comments submitted to the Science Advisory Board, and the Science Advisory Board panel recommendations as the final emissions estimating methodologies are developed.

Dated: February 29, 2012.

Janet McCabe,

Acting Assistant Administrator.

[FR Doc. 2012–5550 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9646–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Ellsworth Air Force Base Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is issuing a Notice of Intent to Delete Operable Unit (OU) 1 the former Fire Protection Training Area (FPTA), along with two other Areas of Concern (AOC): The Gateway Lake Ash Study Area and the Pride Hangar Study Area of the Ellsworth Air Force Base (AFB) Superfund Site located in Meade and Pennington Counties, South Dakota, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of South Dakota, through the Department of Environment and Natural Resources, have determined that all appropriate response actions at these identified parcels under CERCLA other than five year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface soil, unsaturated subsurface soil, surface water and sediments of Operable Unit (OU) 1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area. The groundwater medium associated with OU–11, Basewide Groundwater, will remain on the NPL and is not being considered for deletion as part of this action. The other OUs associated with Ellsworth AFB were deleted in 2006.

DATES: Comments must be received by April 12, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1990–0011, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *Email: dalton.john@epamail.epa.gov.*
- Fax: 303–312–6961.
- *Mail:* Mr. John Dalton, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 1595 Wynkoop St., Denver, CO 80202.
- *Hand delivery:* 1595 Wynkoop St., Denver, CO 80202. 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–SFUND–1990–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means 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 *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, 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 *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

U.S. EPA Records Center, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129, (303) 312–6312, Hours: Mon–Fri, 8:30 a.m. to 5 p.m.

South Dakota Air & Space Museum, 2890 Davis Drive, Building 5208, Ellsworth AFB, SD 57706, (605) 385–5188, Hours: Mon–Fri, 7 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Aguilar, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1195, (303) 312–6251, email: *aguilar.mark@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Partial Site Deletion

I. Introduction

EPA Region 8 announces its intent to delete OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area of the Ellsworth AFB Superfund Site, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Ellsworth AFB Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area of the Ellsworth AFB Superfund Site and demonstrates how they meet the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area of the Site:

(1) EPA consulted with the State before developing this Notice of Intent for Partial Deletion.

(2) EPA has provided the state 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of South Dakota, through the Department of Environment and Natural Resources, has concurred with the deletion of OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area of the Ellsworth AFB Superfund Site, from the NPL.

(5) Concurrently, with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, a notice is being published in a major local newspaper, the Rapid City Journal. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(6) The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to delete OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area of the Ellsworth AFB Superfund Site, the Regional Administrator will publish a final Notice of Partial Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is

designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The following information provides EPA's rationale for deleting OU–1, the Gateway Lake Ash Study Area, and the Pride Hangar Study Area of the Ellsworth AFB Superfund Site from the NPL.

Site Background and History

The Ellsworth AFB Superfund Site (CERCLIS ID #SD2571924644), is a United States Air Force Air Combat Command installation located 12 miles east of Rapid City, South Dakota, and adjacent to the small community of Box Elder. Ellsworth AFB is located within the following Sections, Townships, and Ranges, in Pennington and Meade Counties, South Dakota:

Sections 35 and 36, Township 3 North, Range 8 East, Meade County;

Section 31, Township 3 North, Range 9 East, Meade County;

Sections 1, 2, 11, 12, 13, Township 2 North, Range 8 East, Pennington and Meade Counties; and

Sections 5, 6, 7, 8, 17, 18, 19, Township 2 North, Range 9 East, Pennington and Meade Counties. The main Air Base covers approximately 4,858 acres within Meade and Pennington counties and includes runways, airfield operations, industrial areas, housing, and recreational facilities.

The site was officially activated in July 1942 as the Rapid City Army Air Base, a training facility for B-17 bomber crews. Ellsworth AFB has been the headquarters of operations for a variety of aircraft, the Titan I Intercontinental Ballistic Missile system and the Minuteman I and Minuteman II missile systems. Ellsworth AFB has historically provided support, fueling, training, maintenance, and/or testing facilities.

Operations at Ellsworth AFB over the years generated a variety of waste materials including municipal solid waste, wastewater treatment plant sludge, industrial wastes including waste oils, solvents, paints, spilled fuels, waste pesticides, shop waste, metal remains from ordnance disposal (shell casings and bomb fragments but not unexploded ordnance) and radiological wastes. Contaminants of concern at Ellsworth AFB include chlorinated solvents, waste fuels, and metals.

Ellsworth AFB was proposed for listing on the NPL October 26, 1989 (54 FR 43779), placed on the NPL August 30, 1990 (55 FR 35509), and is therefore subject to the provisions of Section 120 of CERCLA, 42 U.S.C. 9620. At that time, the entire base, approximately 4,858 acres, was included in the listing (''fence line to fence line''). The Department of Defense, EPA and the State of South Dakota entered into a Federal Facilities Agreement (FFA) which formalizes the process for environmental response actions and the relative roles of the Air Force, EPA and the State of South Dakota under CERCLA and the Installation Restoration Program (IRP). The FFA was signed by the Air Force, the EPA, and the State of South Dakota in January 1992 and became effective on April 1, 1992.

Upon listing, the facility began identifying sites where activities involving hazardous substances may have occurred. The sites requiring further investigations were grouped into Operable Units (OUs). Twelve OUs were identified at Ellsworth AFB. The OUs include: OU–1, Fire Protection Training Area; OU–2, Landfills Nos. 1 and 6; OU–3, Landfill No. 2; OU–4, Landfill No. 3; OU–5, Landfill No. 4; OU–6, Landfill No. 5; OU–7, Weapons Storage Area; OU–8, Explosive Ordnance Disposal Area; OU–9, Old Hobby Shop Area; OU–10, North Hangar Complex; OU–11, Basewide Groundwater; and OU–12, Hardfill No. 1. Records of Decision (RODs) were finalized for all of these OUs between October 1995 and April 1997.

Surface soil, unsaturated subsurface soil, surface water, and sediments at OU–2, OU–3, OU–4, OU–5, OU–6, OU–7, OU–8, OU–9, OU–10 and OU–12 (approximately 542 acres) and the surface soil, unsaturated subsurface soil, surface water and sediment media of an additional 4,300 acres not associated with an operable unit were deleted from the NPL December 4, 2006 (71 FR 70318).

Four areas not deleted in 2006 were OU–1 (all media), OU–11 (Basewide Groundwater) [including all groundwater plumes located within the Base boundary and those described as emanating from the Base], and two Areas of Concern: the Gateway Lake Ash Study Area and the Pride Hangar Study Area. Appropriate response actions for soil media have since been completed at OU–1, the Pride Hangar Study Area and the Gateway Lake Ash Study Area. The remedial investigation/feasibility study (RI/FS) process did not identify any unacceptable risks for surface water and sediment at these areas. Therefore, remedial actions were not required for surface water and sediment.

The portions of the Ellsworth AFB Site to be deleted from the NPL are:

- Surface soil, unsaturated subsurface soil, surface water and sediment media at OU–1 [generally described by the following coordinates: N667749.88/E1242611.11; N667496.84/E1242812.29; N667330.75/E1242852.01; N666933.49/E1242558.40; N667158.53/E1242265.75; N667787.47/E1242276.80; N667749.88/E1242611.11]
- Gateway Lake Ash Study Area [generally described by the following coordinates: N667944.01/E1248056.74; N667694.15/E1248058.87; N667695.57/E1247811.84; N667947.55/E1247834.49; N667944.01/E1248056.74]
- Pride Hangar Study Area [generally described by the following coordinates: N673538.32/E1243066.96; N673267.45/E1243270.27; N673228.21/E1243223.95; N673113.04/E1243308.87; N673021.04/E1243204.65; N673409.00/E1242911.91; N673538.32/E1243066.96].

OU–1 consists of the former Fire Protection Training Area (FPTA), Pond 001, and a portion of the drainage channel that leads into Pond 001. The former FPTA is approximately 10 acres in size and is located in the southwestern portion of Ellsworth AFB. The FPTA was operated by the Ellsworth AFB at this location from 1942 to 1990. The location of the burn area within the former FPTA has changed several times over the years. Aerial photographs of Ellsworth AFB show numerous areas of staining presumed to be a result of the fire training activities within the former FPTA. The training exercises conducted at the FPTA involved simulation of aircraft fires and spills and consisted of dispersing various fuels, oils and solvents within the burn pit area and subsequently igniting and extinguishing the fire. Extinguishing chemicals used during the fire-training exercises have included aqueous-film-forming-foam, halon, protein-foams, carbon dioxide, dry chemicals and chlorobromomethane.

The Gateway Lake Ash Study Area is located in the southeast portion of Ellsworth AFB. The site is located in a low area approximately 400 feet south of Gateway Lake and north of the Ellsworth AFB wastewater treatment facility. The area is generally level open terrain that is grass covered and bounded on the north by trees and on the east by an unnamed creek. To the west is the entrance road to the Base's wastewater treatment plant and to the south is the wastewater plant.

The open land that contains the Gateway Lake Ash Study Area had come

under consideration for construction of a new building when soils at the proposed building site were assessed. Two exploratory geotechnical borings were drilled in August 2002 that encountered ash debris and glass material. Further evaluation provided information that the area was once an open ravine which had been filled with ash and debris. An incinerator to the south was identified as a potential source of the fill debris. Over time, the area had been graded and a portion within the fenced boundary of the wastewater treatment facility had been seeded with grass. Except for the planted trees to the north, the remaining area has since grown over with natural grass and shrubs.

The Pride Hangar Study Area is located at the northwest corner of the Pride Hangar within OU–11 and covers approximately 1.7 acres. Two former side-by-side waste solvent underground storage tanks located on the northwest corner of the Pride Hangar were the primary source of a TCE plume known as the Pride Hangar plume. These tanks were removed in 1992.

A map identifying the areas to be deleted is available in the partial deletion docket. The groundwater medium at the Ellsworth AFB Site (OU–11, Basewide Groundwater) will remain on the NPL and response activities will continue for that OU.

Operable Unit 1

An extensive RI was conducted to characterize site conditions at OU–1 in 1993 and 1994. The program included completion of boreholes, installation of monitoring wells, geotechnical analysis of soil samples, ecological investigations, assessment of human health risks, and review and compilation of previous IRP investigations. Collection and laboratory analysis of soil, groundwater, surface water, and sediment samples were included in the RI field program.

Soil impacted by past activities at OU–1 extends from the surface to the capillary fringe beneath the former FPTA. The nature of the soil contamination at OU–1 soils included JP–4 (jet fuel), benzene, toluene, ethylbenzene and xylene (BTEX), and chlorinated volatile organic compounds (VOCs). JP–4 contamination was in a range of hundreds of thousands to millions of micrograms per kilogram (µg/kg) in vadose zone and capillary fringe soils. Total BTEX contamination was in a range of non-detect (ND) to hundreds of thousands of µg/kg in vadose zone soils, and thousands to tens of thousands of µg/kg in capillary fringe soils. Total chlorinated VOCs contamination was in a range of ND to tens of µg/kg in vadose zone soils, and ND to hundreds of µg/kg in capillary fringe soils.

A baseline risk assessment indicated that the soils of the burn-pit area posed an unacceptable risk, primarily from the potential for contaminating the underlying groundwater. Risks from exposure to pesticides and dioxins/furans in surface and subsurface soils at OU–1 were well below the acceptable range and did not warrant remediation. Contaminants in surface water and sediment included VOCs, semi-volatile organic compounds (SVOC), pesticides, one phthalate, one polynuclear aromatic hydrocarbon and inorganics including cyanide, thallium, mercury, arsenic, manganese and nickel. However, it was determined in the risk assessment that the levels of these contaminants fell within the acceptable risk range, and therefore, no remedial action was warranted for surface water or sediment.

A Final ROD for an Interim Remedial Action (IRA) for OU–1 was signed in May 1995. The objective of the IRA at OU–1 is to reduce the immediate risks posed by the contaminants in the deeper subsurface soils of the burn-pit areas of the FPTA and to prevent the movement of contaminants to shallow groundwater. The interim remedy included soil vapor extraction (SVE), groundwater removal using wells and an existing interceptor trench, treatment of groundwater, condensate, and soil gas, and surface water discharge of treatment effluent. Only the SVE system pertains the media being proposed for deletion. The SVE system consisted of four dual phase extraction wells and eight soil vapor extraction wells, and a soil vapor blower with soil gas treated by thermal oxidation before discharge.

The OU–1 SVE system began operation in March 1996 and operated until the final remedy was implemented. The thermal oxidizer was operated from March 1996 to November 1996 when blower discharge contaminant levels were low enough to discharge to the atmosphere.

The 1995 Feasibility Study for OU–1 recommended expanding the IRA SVE system to remove volatile organic chemicals from source area soils. A Final ROD for Remedial Action at OU–1 was signed in May 1996. The remedial action objectives (RAOs) are: (1) The cleanup of ground water to regulatory levels and, for contaminants where regulatory levels are not available, to levels considered safe for public drinking water, and (2) the cleanup of source area soils to levels that would not pose a threat of contaminating ground water. The selected remedial action included: continued operation of the IRA SVE system to remediate a portion of the source area soils; use of groundwater wells and an existing collection trench to remove contaminated groundwater in the source area; installation and use of additional SVE wells, groundwater wells and/or collection trenches; treatment of soil gas and contaminated groundwater at the IRA treatment plant; implementing institutional controls (deed and land use restrictions) to restrict the future use of the area while the remedy is being implemented; and providing for long-term monitoring and maintenance. Only the SVE system and the institutional controls apply to the media being proposed for deletion.

The Final ROD set cleanup goals for four VOCs identified for remediation in soil: benzene (10 µg/kg), 1,2-dichloroethylene (DCE) (41 µg/kg), tetrachloroethylene (PCE) (10 µg/kg), and trichloroethylene (TCE) (10 µg/kg). Cleanup goals for these four VOCs were based on model estimates for the protection of groundwater. Where model estimates were less than standard detection limits, remediation cleanup goals were based on standard detection limits. Remediation of jet fuel in the soil at OU–1 was also required because concentrations of jet fuel and related components exceeded State of South Dakota regulations. Cleanup goals for petroleum related contamination were set at: JP–4 (500,000 µg/kg), toluene (15,000 µg/kg), ethylbenzene (10,000 µg/kg), xylene (300,000 µg/kg), and naphthalene (25,000 µg/kg).

An additional SVE blower, seven dual phase extraction wells, a dual phase extraction trench and four soil vapor extraction wells were installed as part of the Final Remedial Action. The IRA system was incorporated into the final remedy. Construction of the remedial action was completed in June 1997.

This alternative included institutional controls, implemented August 27, 1997, to prevent human exposure to contaminated soil and groundwater. These controls include: (1) Issuing a continuing order to restrict on-site worker access to contaminated soil, and to restrict or control temporary construction activities unless proper protective equipment is worn; (2) filing a notice with the State to recommend denial of water appropriation permit applications to install groundwater wells within the area of contamination and any area which may be effected by potential contaminants; (3) filing a notice to the deed detailing the restrictions of the continuing order and groundwater well restrictions; and (4) a covenant to the deed in the event of

property transfer. The continuing order is reissued with 5-year reviews and the most recent is dated August 5, 2010.

Operation and maintenance of the SVE system included collecting samples at the blower stacks and calculating mass removals, measurements of individual well vacuums and contaminant levels, and blower vacuum. Based on these measurements, operation of the SVE wells and the SVE component of dual phase wells were optimized by applying vacuum to the points of highest contaminant concentration. Based on system monitoring, one SVE blower was shut off in March 2000 and operation of one SVE blower was focused on wells with the highest contaminant concentration. Two additional dual phase extraction wells were installed in June 2003 and began operation in October 2003 to address free product and improve groundwater plume containment.

SVE operation continued until July 2007. SVE operation was suspended in 2007 because monitoring data showed that SVE contaminant mass removal rates had diminished significantly and the removal rates remained low.

A high vacuum extraction system (HVE) was operated from May to November 2007 and from May to November 2008. The HVE system operated at 15 wells (nine monitoring wells and six dual extraction wells) with the primary purpose of removing residual free product. Operation and maintenance of the HVE system included measuring hydrocarbon concentrations in the vapor discharge, measurement of vacuum at individual wells and at the vacuum blower, and drawdown at individual wells. Operation of the HVE system was suspended in November 2008 after free product was no longer observed at any of the wells on site.

A bioventing system was operated at OU–1 from November 2008 through August 2010 to enhance the biological degradation of fuel-related contaminants BTEX; naphthalene; and total petroleum hydrocarbons as gasoline-range organics [GRO] and diesel-range organic [DRO]) in the vadose zone soils. Bioventing was designed to replace the SVE system and utilized existing SVE wells, dual extraction wells, and associated piping. Fifteen SVE and dual extraction wells were used in the bioventing system. Operation and maintenance of the bioventing system included measuring oxygen and carbon dioxide levels in bioventing wells, and recording pressure, temperature and flow from the blower.

Post one year bioventing soil samples were collected in January 2010 at six boring locations where soil samples collected in 1989 or 1993 had exceeded OU–1 soil cleanup goals. Analytical results from vadose zone soils for ethylbenzene, naphthalene, toluene and xylene at the six borings were all below reporting limits (6.9 µg/kg maximum) and below cleanup goals based on State Regulations for each compound (ethylbenzene 10,000 µg/kg, naphthalene 25,000 µg/kg, toluene 15,000 µg/kg, and xylene 300,000 µg/kg). The maximum DRO result from the vadose zone soil samples was 210,000 µg/kg and the maximum GRO result from the vadose zone soil samples was 1,700 µg/kg, both below the cleanup goal of 500,000 µg/kg for JP–4 in soil based on State Regulation.

With respect to the contaminants of concern cis-1,2–DCE, benzene, PCE, and TCE, the analytical results in the vadose zone showed the concentrations were all below reporting limits, which were below the cleanup goals established in the Final ROD. These data demonstrate the cleanup goals have been met.

The 2010 5-year review recommend evaluating existing data to determine if partial deletion of surface soil, unsaturated subsurface soil, surface water and sediment from OU–1 is appropriate. Subsequent data evaluation indicated that unsaturated soils met the cleanup levels documented in the ROD and is protective of groundwater. The next five year review is scheduled for the year 2015.

Gateway Lake Ash Study Area

Electromagnetic survey data from the August 2003 Draft Preliminary Assessment/Site Investigation (PA/SI) Report indicated the areal extent of the ash and debris was approximately ⅓ acre. Field observations and soil borings indicated the ash and debris were 6 to 7.5 feet in thickness and typically encountered within one foot of the surface.

The PA/SI reported contaminants in the ash and debris and soils including VOCs, SVOCs, metals and dioxins/furans. Detected results were compared to the USEPA Region 3 Risk Based Concentrations (RBCs). The industrial soil screening value at a 1x 10–6 risk level was used for dermal and inhalation risk and the dilution attenuation factor (DAF) of 20 was used for evaluating the soil to groundwater migration pathway. Detected metal concentrations were compared to regional concentration ranges as established in the RI Report for nearby OU–6.

Three VOCs were detected in the ash and debris but concentrations did not exceed industrial or DAF 20 values. Five SVOCs (1,4-dichlorobenzene, 2,4-dintrotoluene, 4-nitrophenol, N-nitrosodi-N-propylamine, and 1,2,4-trichlorbenzene) exceeded DAF 20 standards and one SVOC (N-nitrosodi-N-propylamine) exceeded industrial soil standards in the ash and debris. Four VOCs and one SVOC were detected in the soil beneath the ash and debris but concentrations did not exceed industrial or DAF 20 screening levels. Low concentrations of VOCs and SVOCs in the underlying soils indicated the contaminants in the buried ash and debris did not greatly impact the underlying soils.

Metals were detected in the ash and debris with arsenic exceeding RBCs but within the range of background concentration in surrounding soils. Arsenic and mercury exceeded both industrial and DAF 20 screening levels. Manganese exceeded the DAF 20 screening level in the underlying soil but was considered to be within background ranges. Toxicity Characteristic Leaching Potential metals and pH analysis indicated the ash and debris material was non-hazardous. Results for dioxins/furans indicated the maximum concentration in the ash and debris was below screening criteria and similar to background concentrations. Based on the characterization of the ash and debris and no evidence of contaminant migration under the debris or outside the buried debris limits, no further actions were recommended. No RI or FS was completed for the Gateway Lake Ash Study Area soils.

The Air Force, independent of CERCLA, determined that the ash material should be removed from the site and disposed properly at a licensed land disposal facility (the Rapid City Landfill). In January 2007, 4,310 cubic yards of ash material was hauled to the Rapid City Landfill and used as daily cover material. Confirmation sampling of underlying soils for SVOCs detected one SVOC compound, bis(2-ethylhexyl)phthalate, at 74 µg/kg, that was below the DAF 20 value of 2,889,000 µg/kg for that compound. The excavated area was restored by backfilling with clean soil from stockpiles and excavations on Base, and reseeding the site. The characterization of the ash and debris, removal of the ash debris from the site, and results from confirmation sampling in the underlying soil demonstrate that the site is clean.

The Gateway Lake Ash Study Area overlies OU–11, Basewide Groundwater. As a result, the institutional controls for OU11 apply to this area. The ICs selected in the 1997 OU11 ROD included (1) issuing a continuing order

(by the Installation Commander) to restrict or place limitations on the installation of any new groundwater wells; (2) filing a notice in environmental and real estate records at the Base or Installation, detailing the restrictions of the continuing order and groundwater well restrictions; and (3) compliance with the provisions of CERCLA Section 120(h)(3) or other applicable statutory requirements in the event of property transfer. These ICs were implemented August 27, 1997.

The Gateway Lake Ash Study Area was addressed in the 2010 Five Year Review as an area not deleted during the previous partial deletion. No recommendations were made regarding the Gateway Lake Ash Study Area in the 2010 Five Year Review. The next five year review is scheduled for the year 2015.

Pride Hangar Study Area

The Pride Hangar Study Area is located at the northwest corner of the Pride Hangar within OU–11 Area 1 and covers approximately 1.7 acres. Two former side-by-side waste solvent underground storage tanks located on the northwest corner of the Pride Hangar were the primary source of a TCE plume known as the Pride Hangar plume. These tanks were removed in 1992. A soil sample was collected from near the floor of the tank excavation (10 feet below ground surface) in1993 and analyzed for VOC. TCE was reported at 0.09 mg/kg.

During the 1994 RI for OU–11 Basewide Groundwater, a groundwater sample collected near the tank site contained total 1,2–DCE at 11 µg/L, chloroform at 1,580 µg/L, TCE at 6,800 µg/L and JP–4 at 270 µg/L. A soil boring at that same location was non-detect for VOCs and SVOCs in the capillary fringe. The FS for OU–11 Basewide Groundwater Area 1 recommended, and the OU–11 ROD specified groundwater extraction and treatment in OU–11 Area 1. A vacuum extraction system was installed to extract contaminated groundwater and operated southeast (downgradient) of the Pride Hangar from 1997 to 2006. No RI or FS was completed for soils at the Pride Hangar Study Area.

Additional soil sampling was completed at the Pride Hangar Study Area in 2002. In eleven vadose zone soil samples, TCE results ranged from <5 µg/kg to 120 µg/kg and cis-1,2–DCE was detected in only one sample at 40 µg/kg. The September 3, 2003 Serial Letter 1–54–RA–301, Pride Hangar Source Remediation Recommendation, recommended SVE to remove chlorinated VOCs in the vadose zone at the Pride Hangar Study Area. This action was implemented and consisted of SVE pilot testing in May 2004 and intermittent operation of the SVE system from July to November 2004. The SVE system consisted of an SVE blower, eight SVE wells, and temporary above-ground piping. Operation and maintenance of the SVE system included monitoring vacuum at the wells and blower, and vapor flow rate at the blower. The SVE system was shut down due to the potential aeration of groundwater and its detrimental effect on anaerobic groundwater treatment implemented in 2004. A 2007 Explanation of Significant Differences allowed for continued use of the SVE system at the Pride Hangar Study Area even but the SVE system was not operated again.

Vadose zone soil samples were collected from direct push borings in the Pride Hangar Study Area in 2010. Soil samples included samples collected in the vadose zone at the depths where chlorinated VOC concentrations were highest in 2002. TCE concentrations in vadose zone samples were all non-detect except for three detections at concentrations of 0.58, 0.52 and 0.52 µg/kg. These TCE contaminant concentrations are above the most conservative EPA Regional Screening Level for protection of groundwater for TCE but are within the acceptable risk range given the change in the TCE toxicity value. Cis-1,2–DCE concentrations in vadose zone samples were all non-detect except for one detection of 0.81 µg/kg. This cis-1,2–DCE concentration is below the EPA Regional Screening Level for protection of groundwater for cis-1,2–DCE of 21 µg/kg for a DAF of one. These vadose zone soil sample results, reported in the August 2011 Pride Hangar Vadose Zone Soil Sample Results technical memorandum, indicated a significant source of contaminated soil no longer existed.

The Pride Hangar Study Area overlies OU–11, Basewide Groundwater. As a result, the institutional controls for OU11 apply to this area. The ICs selected in the 1997 OU11 ROD included (1) issuing a continuing order (by the Installation Commander) to restrict or place limitations on the installation of any new groundwater wells; (2) filing a notice in environmental and real estate records at the Base or Installation, detailing the restrictions of the continuing order and groundwater well restrictions; and (3) compliance with the provisions of CERCLA Section 120(h)(3) or other applicable statutory requirements in the event of property transfer. These ICs were implemented 27 August 1997.

The Pride Hangar Study Area was addressed in the 2010 Five Year Review as an area not deleted during the previous partial deletion. No recommendations were made regarding the Pride Hangar Study Area in the 2010 Five Year Review. The next five year review is scheduled for the year 2015.

Community Involvement

Community involvement activities that have taken place include publishing the FFA and RODs for public comment, establishing and maintaining an Administrative Record, and formation of a Restoration Advisory Board (RAB) to facilitate input in the cleanup process. The RAB includes Ellsworth AFB, EPA and SDDENR oversight personnel as well as community leaders and local representatives from the surrounding area. RAB meetings are held twice each year, normally in May and November.

Determination That the Criteria for Deletion Have Been Met

EPA, with concurrence from the State of South Dakota, through the Department of the Environment and Natural Resources, by a letter dated November 22, 2011, has determined that no additional response is necessary at Ellsworth AFB for surface soil, unsaturated subsurface soil, and surface water and sediment media at OU–1, the Gateway Lake Ash Study Area and the Pride Hangar Study Area. Responsible parties have completed all appropriate response actions required and the unsaturated subsurface soil is cleaned up at OU–1 and the Pride Hangar Study Area. Investigation of the Gateway Lake Ash Study Area showed that it posed no significant threat to public health or the environment and removal of the debris eliminated any potential threat, therefore, the taking of remedial measures is not appropriate. Therefore, EPA is proposing to delete these portions of the Ellsworth AFB Site.

EPA Region 8 has followed the procedures required by 40 CFR 300.425(e). The EPA has consulted with the State of South Dakota and provided the state 30 working days for review of this notice prior to publication. The State, through the Department of Environment and Natural Resources has concurred with the deletion of surface soil, unsaturated subsurface soil, and surface water and sediment media at OU–1, the Gateway Lake Ash Study Area and the Pride Hangar Study Area from the Ellsworth AFB Superfund Site. Concurrent with the publication of the Notice of Intent for Partial Deletion in

the **Federal Register**, a notice is being published in The Rapid City Journal. The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket, and made these items available for public inspection and copying at the Site information repositories.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: February 8, 2012.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2012–6031 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 77, No. 49
Tuesday, March 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 AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0124]

Notice of Request for Extension of Approval of an Information Collection; Importation of Pork-filled Pasta Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of pork-filled pasta products.

DATES: We will consider all comments that we receive on or before May 14, 2012.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0124-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0124, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0124* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of pork-filled pasta products, contact Dr. Magde S. Elshafie, Staff Veterinarian, Technical Trade Services—Products, National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737; (301) 734–3277. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION: *Title:* Importation of Pork-filled Pasta Products.

OMB Number: 0579–0214.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is authorized to, among other things, prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of animal diseases and pests. To fulfill this mission, APHIS regulates the importation of animals and animal products into the United States. The regulations are contained in title 9, chapter 1, subchapter D, parts 91 through 99, of the Code of Federal Regulations.

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction into the U.S. livestock population of certain contagious animal diseases, including swine vesicular disease (SVD). Section 94.12 of the regulations contains, among other things, specific processing, recordkeeping, and certification requirements for pork-filled pasta products exported to the United States from regions affected with SVD.

The regulations require, among other things, that the pork-filled pasta products be accompanied by a certificate stating that the product has been handled and processed according to the requirements set forth in the regulations. This certificate must be issued and signed by an official of the national government of the region in which the pasta products were processed.

In addition, the processing facility where the pork-filled pasta products are produced must maintain original records (to be kept for a minimum of 2 years) that identify, for each lot of pork used, the date the pork entered the facility, the lot number, the health certificate that accompanied the pork from the slaughter/processing facility to the meat-filled pasta processing facility, and the date the pork either began dry-curing or was cooked.

These records would provide important information in any traceback investigation that may need to be conducted by officials of the region of origin of the pork-filled pasta product, or by officials of the USDA.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: National Government of the region in which the pork-filled pasta product is processed and operators of pasta facilities.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 1.5.

Estimated annual number of responses: 3.

Estimated total annual burden on respondents: 3 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of March 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–5996 Filed 3–12–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0123]

Notice of Request for Extension of Approval of an Information Collection; Standards for Privately Owned Quarantine Facilities for Ruminants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for privately owned quarantine facilities for ruminants.

DATES: We will consider all comments that we receive on or before May 14, 2012.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0123-0001.*
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2011–0123, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0123* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on regulations for privately owned quarantine facilities for ruminants, contact Dr. Langston Hull, Senior Staff Veterinarian, Technical Trade Services Team—Animals, NCIE, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737; (301) 851–3300. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Standards for Privately Owned Quarantine Facilities for Ruminants.

OMB Number: 0579–0232.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), authorizes the Secretary of Agriculture to, among other things, prohibit or restrict the importation and interstate movement of animals and animal products into the United States to prevent the introduction of animal diseases and pests.

The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products in order to help prevent the introduction of various animal diseases into the United States. The regulations in part 93 require, among other things, that certain animals, as a condition of entry, be quarantined upon arrival in the United States. APHIS operates animal quarantine facilities and also authorizes the use of quarantine facilities that are privately owned and operated for certain animal importations.

The regulations at subpart D of part 93 (9 CFR 93.400 through 93.436) pertain to the importation of ruminants. Ruminants include all animals that chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes. Ruminants imported into the United States must be quarantined upon arrival for at least 30 days, with certain exceptions. Ruminants from Canada and Mexico are not subject to this quarantine.

Regulations for privately owned quarantine facilities for ruminants require the use of certain information collection activities, including applications for facility approval, compliance agreements explaining the conditions under which the facility must be operated, certifications that the facility meets all applicable environmental regulations, requests for variance, and maintenance of certain records covering quarantine operations.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 16 hours per response.

Respondents: Owners/operators of privately owned quarantine facilities for ruminants.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 4.

Estimated total annual burden on respondents: 64 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of March 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–5997 Filed 3–12–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0122]

Notice of Request for Extension of Approval of an Information Collection; Importation of Swine and Swine Products From the European Union

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of swine and swine products from the European Union.

DATES: We will consider all comments that we receive on or before May 14, 2012.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0122-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0122, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0122* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of swine and swine products from the European Union, contact Dr. Langston Hull, Senior Staff Veterinarian, Technical Trade Services Team—Animals, NCIE, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737; (301) 851–3300. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Swine and Swine Products from the European Union.

OMB Number: 0579–0265.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), authorizes the Secretary of Agriculture to, among other things, prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into or dissemination within the United States of animal diseases and pests. Regulations governing the importation of animals and animal products into the United States are contained in 9 CFR parts 92 through 98.

The regulations in 9 CFR part 94 prohibit or restrict the importation of certain animals and animal products, including live swine, pork and pork products into the United States to prevent the introduction into U.S. livestock population of certain animal diseases, including classical swine fever (CSF), rinderpest, foot-and-mouth disease, swine vesicular disease, and African swine fever.

Section 94.24 deals specifically with the importation of pork and pork products from regions where CSF exists. The regulations allow, under specified conditions, the importation of pork, pork products, and swine from the APHIS-defined European Union CSF region. These requirements necessitate the use of several information collection activities, including certification statements for the importation of pork, pork products, and swine; and the placing of seals on certain conveyances.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Foreign animal health officials.

Estimated annual number of respondents: 15.

Estimated annual number of responses per respondent: 456.4.

Estimated annual number of responses: 6,846.

Estimated total annual burden on respondents: 6,846 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of March 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–5999 Filed 3–12–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Information Collection Request; Economic Assessment of Conservation Reserve Program Lands for Hunting

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) are requesting comments from all interested individuals and organizations on a new information collection request associated with the Economic Assessment of Conservation Reserve Program (CRP) Lands for Hunting.

DATES: We will consider comments that we receive by May 14, 2012.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, OMB control number, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Skip Hyberg, Agricultural Economist, Economic and Policy Analysis Staff, Farm Service Agency, 1400 Independence Ave. SW., Room 3730, Mail Stop 0519, Washington, DC 20250.

Comments also should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be obtained from Dr. Skip Hyberg at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Skip Hyberg, (202) 720–9222. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Title: Economic Assessment of Conservation Reserve Program Lands for Hunting.

OMB Control Number: 0560–NEW.

Type of Request: New.

Abstract: As specified in the Food, Conservation, and Energy Act of 2008, (the 2008 Farm Bill, Pub. L. 110–246), FSA administers the CRP to conserve and improve soil, water, and wildlife resources. Federal investments in the CRP on private cropland enhance essential ecosystem services, including wildlife, and provide improved hunting opportunities in rural areas. Hunters from urban areas within the State and non-residents outside the State are drawn to CRP lands or other private lands surrounding CRP lands for hunting.

FSA is required by statute to consider benefits from the enhancement of wildlife habitat when selecting CRP offers. Because hunter spending increases in rural areas as hunting opportunities increase, economic activity and employment within the outdoor recreational sector are enhanced. FSA is responsible for identifying and quantifying the relationship between job creation and investments in CRP lands, as increased outdoor recreation is among the benefits FSA provides in administering the CRP.

There have been no statewide assessments of the CRP program on hunting use, expenditures, and jobs in North and South Dakota (ND and SD, respectively). The only prior studies focused on six small areas in ND and are 10 years old. There have been significant changes to the CRP program since that time. In addition, there is limited generalizability of the six ND areas to the rest of ND and SD. Without data on hunter use and expenditures, the economic contribution generated by federal investments in CRP cannot be reliably estimated.

FSA plans to conduct statewide mail surveys with ND and SD hunters to elicit information on:

(a) Their use of CRP lands in terms of days spent hunting there;

(b) Expenditure pattern information; and

(c) Net economic values.

The primary objective of the survey is to estimate the employment and income contribution of current CRP lands to the rural areas within the respective States, and possible changes to jobs and income emanating from changes in the CRP program.

We have discussed the survey with the State Fish and Game agencies and tentatively selected mail surveys. Mail surveys appear to be the best unbiased survey approach because the State Fish and Game agencies do not have email addresses for all hunters, and hunters in many rural locations of ND and SD do not have email access at home.

Collection of the data is necessary to evaluate and improve CRP selection criteria and program implementation. Having information on recreation-related jobs permits a comparison of county-level impacts of CRP land temporarily going out of crop production.

Estimate of burden: Public reporting burden for this information collection is estimated to average 20 minutes per response.

Frequency of Collection: One time only.

Respondents: Hunters in ND and SD.

Estimated Number of Annual Respondents: 2,400.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 2,400.

Estimated Total Annual Burden on Respondents: 800 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden, 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.

All responses to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed on March 6, 2012.

Bruce Nelson,

Administrator, Farm Service Agency, Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2012–6011 Filed 3–12–12; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest Wrangell Ranger District; Alaska; Wrangell Island Project Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Corrected Notice of Intent to prepare an environmental impact statement.

SUMMARY: A Notice of Intent (NOI) was first published for this proposal in the **Federal Register** (75 FR 81210) on December 27, 2010. This NOI is being published due to the length of time that has passed since the first NOI was published and due to changes made to the Purpose and Need and Proposed Action in response to public input received during the initial scoping period.

DATES: Comments received during the initial scoping period in 2010–2011 will be considered in the preparation of this EIS. New or additional comments must be received by March 15, 2012, 45 days from date of publication of this Corrected NOI in the **Federal Register**. The draft environmental impact statement is expected in December 2012, and the final environmental impact statement is expected in June 2013.

ADDRESSES: Send written comments to: Tongass National Forest, c/o Tim Piazza, 648 Mission Street, Ketchikan, AK 99901, Attn: Wrangell Island Project EIS. Comments may be hand-delivered to the Wrangell Ranger District, 525 Bennett Drive, Wrangell, AK 99929, Attn: Wrangell Island Project EIS. Comments may also be sent via email to: *wrangell_island_project_eis@fs.fed.us,* or via facsimile to 907–228–6215, Attn: Wrangell Island Project EIS.

In all correspondence, please include your name, address, and organization name if you are commenting as a representative of an organization.

FOR FURTHER INFORMATION CONTACT: Tim Piazza, Team Leader, Federal Building, Ketchikan, AK 99901, (907) 228–6318; or Austin O'Brien, Wrangell Ranger District, P.O. Box 51, Wrangell, AK 99929, (907) 874–2323.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the Wrangell Island Project is to respond to the goals and objectives identified by the Forest Plan to guide timber management to support the local and regional economies of Southeast Alaska, while moving the Wrangell Island Project Area towards the desired future condition for all resources.

The underlying need for the Wrangell Island Project comes from the Forest Service's obligation, subject to applicable law, to seek to provide a supply of timber from the Tongass that meets market demand annually and for the planning cycle, and to restore and improve forest resources to a condition where they provide increased benefits to society.

Integrated planning is essential to provide an orderly flow of timber to large and small timber purchasers, mill operators, and value-added wood product industries in Southeast Alaska who contribute to the local and regional economies of Wrangell Island and Southeast Alaska while also improving forest resource conditions. This project will help provide a reliable, long-term supply of timber that will support local jobs and facilitate the transition to a sustainable wood product industry based on young-growth management.

Proposed Action

The Forest Service is proposing a multi-year project involving a variety of timber harvest, road construction, and forest restoration and enhancement activities. The proposed action would include the harvest of timber from up to 6,500 acres of forested land using one or varying sizes of timber sales, offered over a period of years, within the roaded land base on Wrangell Island. Up to 22 miles of National Forest System road and about 30 miles of temporary road would be constructed. Preliminary analysis shows that up to an estimated 80 million board feet of sawtimber and utility wood could be made available to industry for harvest. Existing log transfer facilities would be used as needed. Harvest would include helicopter, ground based, and cable-yarding systems and include even-aged and uneven-aged harvest prescriptions to achieve stand objectives.

Integrated restoration and enhancement activities will include road maintenance and improvements, invasive species treatments, erosion control, fish passage improvements. Other activities may include recreation enhancements, wildlife and fisheries habitat improvements, and subsistence access enhancement. All proposed activities would meet the standards and guidelines of the Tongass Forest Plan.

Possible Alternatives

In addition to the Proposed Action and No Action alternative, the Forest Service is considering a range of action alternatives based on public input received to date. These include an alternative which adjusts Old Growth Reserve (OGR) boundaries to allow timber harvest within the roaded portions of small and medium OGRs on Wrangell Island. This alternative would require a Forest Plan amendment as part of the Decision. Another alternative is being developed by interested citizens and the Borough of Wrangell.

Responsible Official

The responsible official for the decision on this project is the Forest Supervisor, Tongass National Forest, Federal Building, 648 Mission Street, Ketchikan, Alaska 99901.

Nature of Decision To Be Made

The responsible official will decide: (1) The estimated timber volume to make available from the project, as well as the location, design, and scheduling of timber harvest, road construction and reconstruction, and silvicultural practices used; (2) access management measures (road, trail, and area restrictions and closures); (3) mitigation measures and monitoring requirements; and (4) whether there may be a significant restriction on subsistence uses.

Preliminary Issues

The initial scoping identified preliminary issues and concerns which may be analyzed in the EIS to disclose potential effects of the project on the following: timber supply, supporting the timber industry through the transition from old-growth harvest to young-growth management, road and access management, economic and rural stability, wildlife habitat, aquatic habitat (fisheries/hydrology/watersheds), soil productivity and slope stability, invasive species, heritage resources, roadless area characteristics, scenery, recreation, subsistence use, and climate change and carbon cycling.

Preliminary List of Permits or Licenses Required

All necessary permits will be obtained prior to project implementation, and may include the following:

U.S. Environmental Protection Agency

- Review Spill Prevention Control and Countermeasure Plan State of Alaska, Department of Environmental Conservation (DEC):
- Solid Waste Disposal Permit State of Alaska, Department of Natural Resources (DNR):
- Authorization for occupancy and use of tidelands and submerged lands

Scoping Process

The initial scoping period started when the NOI was published in 2010. This proposal has been listed on the Tongass National Forest Schedule of Proposed Actions since January, 2011. There is an opportunity to submit new or additional comments for 45 days after publication of this Corrected NOI. Comments submitted previously will be considered in the analysis.

Public scoping meetings were held in Petersburg and Wrangell, Alaska, on January 11 and 13, 2011, respectively. An updated scoping document has been posted on the Tongass National Forest public Web site at *http://www.fs.fed.us/r10/tongass/projects/projects.shtml,* and a project update letter will be mailed out to those who previously commented.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will also be accepted and considered.

Dated: March 5, 2012.

Forrest Cole,

Forest Supervisor, Tongass National Forest.

[FR Doc. 2012–5982 Filed 3–12–12; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a fact finding meeting of the Ohio Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 5 p.m. on April 4, 2012, at Wilmington College, McCoy Room, College Street, Wilmington, OH 45177. The purpose of the meeting is to conduct a fact finding on civil rights issues regarding barriers to entrepreneurship in Ohio. Participants of the meeting will include community representatives, government officials, business leaders, and other interested parties.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by May 4, 2012. The address is 55 W. Monroe St., Suite 410, Chicago, IL 60603. Persons wishing to email their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Carolyn Allen, Administrative Assistant, (312) 353–8311, or by email: *callen@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Midwestern Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, March 7, 2012.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2012–5948 Filed 3–12–12; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Notice of Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On October 7, 2011, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the antidumping duty administrative review for certain lined paper products from India (CLPP).[1] This review covers 35 manufacturers and exporters of the subject merchandise,[2] including Navneet Publications (India) Limited (Navneet) and Riddhi Enterprises (Riddhi), for the period September 1, 2009, through August 31, 2010. As a result of our analysis of the comments received, these final results differ from the *Preliminary Results.* On February 3, 2012, the Department extended the final results of this review from February 6, 2012, to March 5, 2012.[3]

For our final results, we continue to find that Navneet and Riddhi have made sales of subject merchandise at less than normal value (NV). In addition, based on these final results for Navneet and Riddhi, we have determined that the 33 remaining non-selected companies will receive the weighted-average non-selected respondent rate as calculated in these final results.

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

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Navneet) and George McMahon (Riddhi), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3692, (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Comments From Interested Parties

We invited parties to comment on our *Preliminary Results.* Riddhi submitted a case brief on November 4, 2011, and the petitioner and Navneet submitted case briefs on November 7, 2011, respectively. On November 14, 2011, Navneet filed a rebuttal brief. On November 15, 2011, the petitioner filed a rebuttal brief. The petitioner filed a letter on December 14, 2011, requesting that the Department reject Navneet's rebuttal brief claiming it included untimely filed new factual information. The Department found that Navneet did in fact, include certain untimely filed factual information in its rebuttal brief and rejected this brief on December 16, 2011.[4] Pursuant to the Department's letter of December 16, 2011, Navneet re-filed its rebuttal brief on December 23, 2011, to exclude the untimely filed factual information.[5]

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for loose leaf filler paper) including but not limited to such products as single- and

[1] *See Certain Lined Paper Products From India: Notice of Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 62343 (October 7, 2011) (*Preliminary Results*).

[2] The Department received a timely request to conduct an administrative review of the following 35 companies: Abhinav Paper Products Pvt. Ltd.; American Scholar, Inc. and/or I-Scholar; Ampoules & Vials Mfg. Co. Ltd.; AR Printing & Packaging (India) Pvt.; Bafna Exports; Cello International Pvt. Ltd. (M/S Cello Paper Products); Corporate Stationery Pvt. Ltd.; Creative Divya; D.D International; Exel India (Pvt.) Ltd.; Exmart International Pvt. Ltd.; Fatechand Mahendrakumar; FFI International; Freight India Logistics Pvt. Ltd.; International Greetings Pvt. Ltd.; Kejriwal Paper Ltd., and Kejriwal Exports; Lodha Offset Limited; Magic International Pvt Ltd.; Marigold ExIm Pvt. Ltd.; Marisa International; Navneet Publications (India) Ltd.; Orient Press Ltd.; Paperwise Inc.; Pioneer Stationery Pvt. Ltd.; Premier Exports; Rajvansh International; Riddhi Enterprises; SAB International; Sar Transport Systems; Seet Kamal International; Sonal Printers Pvt Ltd; Super Impex; Swati Growth Funds Ltd.; V & M; and Yash Laminates.

[3] *See Certain Lined Paper Products From India: Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review,* 77 FR 5486 (February 3, 2012).

[4] *See* the Department's letter to Navneet, titled ''Rejection of Rebuttal Brief with Untimely Filed New Factual Information,'' dated December 16, 2011; *see* also Memo from George McMahon to the File titled, ''Rejection of Submission Due to Untimely Filed New Factual Information,'' dated December 16, 2011.

[5] Pursuant to 19 CFR 351.301(b) and (c), parties in this administrative review may only file factual information (1) up to 140 days after the last day of the anniversary month of the review, (2) in response to Departmental requests, or (3) within 10 days after the submission of factual information by another party pursuant to the 140-day deadline or a Departmental request. Accordingly, based on these rules, new factual information is not permitted in case and rebuttal briefs. *See, e.g., Stainless Steel Bar from India:* Final Results of the Antidumping Duty Administrative Review, and Revocation of the Order, in Part, 76 FR 56401, 56402 (September 13, 2011).

multi-subject notebooks, composition books, wireless notebooks, loose leaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or ''tear-out'' size), and are measured as they appear in the product (*i.e.,* stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
- Writing pads with a backing (including but not limited to products commonly known as ''tablets,'' ''note pads,'' ''legal pads,'' and ''quadrille pads''), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- Index cards;
- Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- Newspapers;
- Pictures and photographs;
- Desk and wall calendars and organizers (including but not limited to such products generally known as ''office planners,'' ''time books,'' and ''appointment books'');
- Telephone logs;
- Address books;
- Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- Lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- Lined continuous computer paper;
- Boxed or packaged writing stationary (including but not limited to products commonly known as ''fine business paper,'' ''parchment paper,'' and ''letterhead''), whether or not containing a lined header or decorative lines;
- Stenographic pads (''steno pads''), Gregg ruled (''Gregg ruling'' consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1″ wide elastic fabric band. This band is located 2⅜″ from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products

found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Period of Review

The period of review (POR) is September 1, 2009, through August 31, 2010.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum for the Final Results in the Fourth Antidumping Duty Order Administrative Review of Certain Lined Paper Products from India (2009–2010),'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, (''Issues and Decision Memorandum''), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available in the Central Records Unit, main Commerce Building, Room 7046. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/*. The signed Issues and Decision Memorandum and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on comments received from the interested parties, we have made company-specific changes to Navneet's margin calculation. *See* Issues and Decision Memorandum and the Analysis Memorandum to File through James Terpstra, Program Manager, from Stephanie Moore for Navneet Regarding ''Final Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India,'' dated concurrent with this notice, for further details.

Final Results of Review:

We determine that the following weighted-average margins exist:

Manufacturer/Exporter	Weighted average margin (percent)
Navneet Publications (India) Ltd	2.70
Riddhi Enterprises	3.58

Review-Specific Average Rate [6] Applicable to the 33 Non-Selected Companies Subject to This Review:

Manufacturer/Exporter	Weighted average margin (percent)
Abhinav Paper Products Pvt. Ltd	3.05
American Scholar, Inc. and/or I-Scholar	3.05
Ampoules & Vials Mfg. Co. Ltd	3.05
AR Printing & Packaging (India) Pvt	3.05
Bafna Exports	3.05
Cello International Pvt. Ltd. (M/S Cello Paper Products)	3.05
Corporate Stationary Pvt. Ltd	3.05
Creative Divya	3.05
D.D International	3.05
Exel India (Pvt.) Ltd	3.05
Exmart International Pvt. Ltd	3.05
Fatechand Mahendrakumar	3.05
FFI International	3.05
Freight India Logistics Pvt. Ltd	3.05
International Greetings Pvt. Ltd	3.05
Kejriwal Paper Ltd., and Kejriwal Exports	3.05
Lodha Offset Limited	3.05
Magic International	3.05
Marigold Exlm Pvt. Ltd	3.05
Marisa International	3.05
Orient Press Ltd	3.05
Paperwise Inc	3.05
Pioneer Stationery Pvt. Ltd	3.05
Premier Exports	3.05
Rajvansh International	3.05
SAB International	3.05
Sar Transport Systems	3.05
Seet Kamal International	3.05
Super Impex	3.05
Sonal Printers Pvt Ltd	3.05
Swati Growth Funds Ltd	3.05
V & M	3.05
Yash Laminates	3.05

[6] This rate is a weighted-average percentage margin (calculated based on the publicly ranged U.S. quantities of the two reviewed companies with an affirmative dumping margin) for the period September 1, 2009, through August 31, 2010. *See* Memorandum to the File, titled, ''Certain Lined Paper Products from India: Margin for Respondents Not Selected for Individual Examination,'' from George McMahon and Stephanie Moore, Case Analysts, through James Terpstra, Program Manager, dated concurrent with this notice.

Assessment Rates

Pursuant to these final results, the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the antidumping margins calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The Department intends to issue assessment instructions directly to CBP 15 days after publication of the final results of this 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 Policy Notice*). This clarification applies to POR entries of subject merchandise produced by companies examined in this review (*i.e.,* companies for which a dumping margin was calculated) where the companies did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 3.91 percent all-others rate for India if there is no company-specific rate for an intermediary company(ies) involved in the transaction. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*Lined Paper Orders*). *See also Assessment Policy Notice,* 68 FR at 23954.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of these final results for all shipments of CLPP from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a) of the Act: (1) For companies covered by this

review, the cash deposit rate will be the rates listed above; (2) for previously reviewed or investigated companies other than those covered by this review, the cash deposit rate will be the company-specific rate established 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 producer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the investigation, the cash deposit rate will be 3.91 percent, the all-others rate established in the less-than-fair-value investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 5, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

APPENDIX I

List of Comments in the Accompanying Issues and Decision Memorandum:

A. *General Issue*
Comment 1: *Treatment of Negative Dumping Margins (Zeroing)*
B. *Company Specific Issues*
Comment 2: *Whether to use Navneet's Purchase Order Date for its U.S. Sales*
Comment 3: *Whether to Recalculate Navneet's Imputed Credit Expenses*
Comment 4: *Whether to Adjust Navneet's Cost of Manufacturing*
Comment 5: *Treatment of Navneet's Canvassing Expenses as a Direct Selling Expense*
Comment 6: *Whether to make an Excise Tax Adjustment for Navneet*
Comment 7: *Whether to Modify Navneet's Cost Calculation Data*

[FR Doc. 2012–6082 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

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

DATES: March 13, 2012.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Drew Jackson, 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) 482–4406, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On November 16, 2011, the Department of Commerce (''Department'') published a notice of initiation of an antidumping duty investigation of crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China.[1] The period of investigation is April 1, 2011, through September 30, 2011. The notice of initiation stated that, unless postponed, the Department would issue its preliminary determination for this investigation no later than 140 days after the date of the initiation in accordance with section 773(b)(1)(A) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.205(b)(1). The preliminary determination of the antidumping duty investigation is currently due no later than March 27, 2012.

On March 2, 2012, SolarWorld Industries America Inc. (''Petitioner''), made a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(b)(2) and (e) for postponement of the preliminary determination in this investigation.[2] Petitioner requested a 30-day postponement of the preliminary determination in order to provide the Department with sufficient time to review the questionnaire responses and issue appropriate requests for clarification and additional information.

Sections 733(c)(1)(B)(i) and (ii) of the Act permit the Department to extend the time limits for the preliminary determination if it concludes that the parties concerned are cooperating and determines that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated or adjustments to be considered, the novelty of issues presented, or the number of firms whose activities must be investigated, and additional time is necessary to make the preliminary determination. The Department may postpone making the preliminary determination under section 733(c)(1)(B) of the Act until not later than the 190th day after the date on which the administering authority initiates an investigation under section 732(c) of the Act, or an investigation is initiated under section 732(a) of the Act.[3]

The Department has concluded that the parties concerned are cooperating with the antidumping duty investigation and the nature of this case is extraordinarily complicated. Since the initiation of this investigation, the mandatory respondents filed timely, extensive questionnaire and supplemental questionnaire responses. Further, the instant investigation involves a technologically sophisticated product that is manufactured through a complex, multi-stage production process using numerous factors of production (''FOP''). Accordingly, the methodology employed to report FOP data is inherently complex. Moreover, additional time is necessary in order to

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 76 FR 70960 (November 16, 2011).

[2] *See* Letter from Petitioner to the Secretary of Commerce, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Request to Extend Preliminary Determination in Antidumping Duty Investigation,'' dated March 2, 2012.

[3] *See generally* section 733(c)(1)(B) of the Act.

issue the preliminary determination. For the forgoing reasons, the Department determines that this investigation in extraordinarily complicated within the meaning of section 733(c)(1)(B)(i) of the Act and that a full extension of the preliminary determination is necessary.

Accordingly, in accordance with section 733(c)(1) of the Act, we are fully extending the due date for the preliminary determination to no later than 190 days after the day on which the investigation was initiated. Thus the new deadline for issuing the preliminary determination is May 16, 2012.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 6, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–6023 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

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

FOR FURTHER INFORMATION CONTACT: Jerrold Freeman, 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) 482–0180.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 2011, the Department of Commerce (the Department) published in the **Federal Register** the *Preliminary Results* of the first administrative review covering the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China for the period January 23, 2009, through October 31, 2010.[1] Subsequent to the publication of the *Preliminary Results,* the Department extended the deadlines for submission of post-preliminary surrogate values, rebuttal comments and case briefs.[2] The final results of the review are currently due no later than April 4, 2012.

Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days after the date on which the preliminary results are published.

We determine that it is not practicable to complete the final results of this review within the original time limit because of the complexity of issues involving the analysis of surrogate value data on the record and because of the additional extensions we have granted, at the request of various parties, to review and submit post-preliminary surrogate value data, case briefs and rebuttal comments. Therefore, we are extending the time period for issuing the final results of this review by 40 days until May 14, 2012.

This notice is published in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: March 7, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–6077 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–405–803, A–421–811]

Purified Carboxymethylcellulose From Finland and the Netherlands: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Reviews

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

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

FOR FURTHER INFORMATION CONTACT: Robert James or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0649 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2011, the Department of Commerce (the Department) published in the **Federal Register** the initiation of administrative review of the antidumping duty orders on, *inter alia,* purified carboxymethylcellulose from Finland and the Netherlands covering the period July 1, 2010, through June 30, 2011. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 76 FR 53404 (August 26, 2011). The current deadline for the preliminary results of these reviews is April 1, 2012.

Extension of Time Limits for Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires that the Department complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month of an order for which a review is requested.

The Department finds it is not practicable to complete the preliminary results of these reviews within the original time frame because the Department requires additional time to gather and analyze the information submitted on the record. Thus, the Department finds it is not practicable to complete these reviews within the original time limit (*i.e.,* April 1, 2012). Accordingly, the Department is extending the time limit for completion of the preliminary results of these administrative reviews by 120 days (*i.e.,* until July 30, 2012), in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). We intend to issue the final results no later than 120 days after publication of the preliminary results notice.

This extension is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

[1] *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part,* 76 FR 76135 (December 6, 2011) (Preliminary Results).

[2] *See* Letters from Minoo Hatten, Program Manager, Office 1, to All Interested Parties dated December 22, 2011, January 24, 2012, and February 2, 2012.

Dated: March 5, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–6024 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee Public Meeting

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Environmental Technologies Trade Advisory Committee (ETTAC).

DATES: The meeting is scheduled for Thursday, April 27, 2012, at 9 a.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held in Room 4830 at the U.S. Department of Commerce, Herbert Clark Hoover Building, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Todd DeLelle, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 4053, 1401 Constitution Avenue NW., Washington, DC 20230. (Phone: 202–482–4877; Fax: 202–482–5665; email: *todd.delelle@trade.gov*). This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–5225 no less than one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The meeting will take place from 9 a.m. to 3:30 p.m. EDT. This meeting is open to the public and time will be permitted for public comment from 3:00–3:30 p.m. EDT. Written comments concerning ETTAC affairs are welcome any time before or after the meeting. Minutes will be available within 30 days of this meeting.

Topics to be Considered: The agenda for the April 27, 2011 ETTAC meeting will include discussion of various issues and policies that affect environmental trade. These subjects will encompass the harmonization of global environmental regulations, standards, and certification programs; analysis of existing environmental goods and services data sources; trade liberalization negotiations; development of trade promotion programs; and issues related to innovation in the environmental technology sector.

Background: The ETTAC is mandated by Public Law 103–392. It was created to advise the U.S. government on environmental trade policies and programs, and to help it to focus its resources on increasing the exports of the U.S. environmental industry. ETTAC operates as an advisory committee to the Secretary of Commerce and the Trade Promotion Coordinating Committee (TPCC). ETTAC was originally chartered in May of 1994. It was most recently re-chartered until October 2012.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2012–6016 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB058

Incidental Take Permit and Habitat Conservation Plan for PacifiCorp Klamath Hydroelectric Project Interim Operations

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

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Final Environmental Assessment (EA) on the application from PacifiCorp Energy (PacifiCorp or applicant) for an Incidental Take Permit (ITP) and Habitat Conservation Plan (HCP) for take of a threatened species in accordance with the Endangered Species Act of 1973, as amended (ESA). NMFS and PacifiCorp have also developed an implementing agreement (IA) which details how NMFS and PacifiCorp will work together to implement the HCP. This notice also announces that NMFS has made a decision to issue an ITP to PacifiCorp for the covered activities described in their HCP, and has authorized the incidental take of Southern Oregon/Northern California Coast (SONCC) Evolutionarily Significant Unit (ESU) coho salmon (*Oncorhynchus kisutch*) as a result of operation and maintenance of its Klamath Hydroelectric Project (Project) in and near the Klamath River in Southern Oregon and Northern California, and implementation of the HCP during a ten-year period. This notice is provided under National Environmental Policy Act (NEPA) regulations and NMFS ESA permit regulations to inform the public that the Final EA HCP, responses to public comments, and associated documents are available for review; and NMFS has made a decision to issue the ITP.

FOR FURTHER INFORMATION CONTACT: For further information, or to receive a copy of the documents, please call Lisa Roberts, Fisheries Biologist, NMFS, at (707) 825–5178.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the Final EA, HCP, IA, and associated documents are available for public inspection during regular business hours at the Northern California National Marine Fisheries Office located at: 1655 Heindon Road, Arcata, CA 95521 (see **FOR FURTHER INFORMATION CONTACT**). The Final EA, HCP, and IA are also available electronically for review on the NMFS Southwest Region Web site at: *http://swr.nmfs.noaa.gov/nepa.htm*.

Background

Section 9 of the Federal ESA prohibits the take of fish or wildlife species listed as endangered or threatened by either the FWS or NMFS (16 U.S.C. 1538). The ESA defines the term ''take'' as: ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532(19)). NMFS has defined ''harm'' as an act which actually kills or injures fish or wildlife, and such acts may include ''significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering'' (50 CFR 222.102). Pursuant to section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), NMFS may issue ITPs authorizing the take of listed species if, among other things, such taking is incidental to, and not the purpose of, otherwise lawful activities.

To receive an ITP under the ESA, an applicant must prepare an HCP that specifies the following: (1) the impact which will likely result from the taking; (2) steps the applicant will take to minimize and mitigate the impacts; (3) funding available to implement the steps; (4) what alternative actions to the taking the applicant considered and the reasons why these alternatives were not used; and (5) any other measures NMFS may require as being necessary or appropriate for purposes of the HCP (16

U.S.C. 1539(a)(2)(A)). To issue a permit, NMFS must find that: (1) the taking will be incidental; (2) the applicant will minimize and mitigate impacts of the taking to the maximum extent practicable; (3) the applicant will ensure adequate funding for the HCP; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will meet other measures required by NMFS. Regulations governing issuance of NMFS-issued permits can be found at 50 CFR 222.301 through 307.

The applicant requested an ITP from NMFS for the SONCC coho salmon ESU. The Final PacifiCorp HCP for the Project includes a series of conservation measures to minimize and mitigate the effects of operation of the Project on potential incidental take of SONCC ESU coho salmon during the 10-year permit term. In general, the Covered Activities under the ITP and HCP include the following: (1) Operate and maintain the spill gates at Link River dam for regulation and releases of flows from Link River dam for purposes of hydroelectric generation, (2) Operate and maintain the East Side and West Side canals, penstocks, turbines, and powerhouse facilities, (3) Operate and maintain Keno dam, spill gates, and fish ladder, (4) Regulate the water level upstream of Keno dam in accordance with the agreement with the U.S. Bureau of Reclamation (Reclamation) (per PacifiCorp's existing Federal Energy Regulatory Commission (FERC) license) and for irrigation withdrawal activities, (5) Operate and maintain J.C. Boyle dam, fish bypass system, water conveyance system, (6) Maintain an instream flow release from the J.C. Boyle dam to the river of not less than 100 cfs (per PacifiCorp's existing FERC license), (7) Regulate flows from J.C. Boyle dam and powerhouse during normal operations such that ramping rates of flow in the river do not exceed 9 inches per hour (as measured at the United States Geological Survey (USGS) gage located 0.5 mile downstream of the J.C. Boyle powerhouse) per PacifiCorp's existing FERC license, (8) Operate and maintain Copco No. 1 and Copco No. 2 dams, water conveyance systems, turbines, and powerhouse facilities, (9) Operate and maintain Iron Gate dam (and associated appurtenances), penstocks, turbines, and powerhouse facilities, (10) Regulate releases from Iron Gate dam in accordance with NMFS' biological opinion on Reclamation's Klamath Project operations which identifies instream flow and ramping rate requirements (as measured at the USGS gage located 0.5 mile downstream of Iron Gate dam), and (11) Regulate water levels at Keno, J.C. Boyle, Copco, and Iron Gate reservoirs.

The stated biological goals of PacifiCorp's HCP are to: (1) Offset biological effects of blocked habitat upstream of Iron Gate dam by enhancing the viability of the Upper Klamath coho salmon population, (2) Enhance coho salmon spawning habitat downstream of Iron Gate dam, (3) Improve instream flow conditions for coho salmon downstream of Iron Gate dam, (4) Improve water quality for coho salmon downstream of Iron Gate dam, (5) Reduce disease incidence and mortality in juvenile coho salmon downstream of Iron Gate dam, (6) Enhance migratory and rearing habitat for coho salmon in the Klamath River mainstem corridor, and (7) Enhance and expand rearing habitat for coho salmon in key tributaries.

A Notice of Availability (NOA) of the draft environmental assessment, habitat conservation plan, implementing agreement, receipt of application for the ITP, and notice of a public meeting was published in the **Federal Register** on May 4, 2011 (76 FR 25307). The public review period occurred for 60 days, and no oral comments were received at a public meeting held in Redding, California on June 29, 2011. A total of eleven (11) individual comment letters were received by the July 5, 2011 public comment deadline. Two separate individual comment letters were received after the public comment deadline, and responses to concerns raised in these letters have been provided separately from the final environmental assessment. NMFS reviewed the comments received and identified 79 separate comments regarding either the Draft EA or the HCP. A response to each of the comments received during the public comment period is included in the Final EA.

National Environmental Policy Act

The proposed permit issuance triggered the need for compliance with NEPA and accordingly NMFS prepared a NEPA document. The Final EA analyzes the proposed action and one other alternative (No Action). Under the proposed action, NMFS would issue the ITP and PacifiCorp would implement its HCP within the Klamath River basin. Under the No Action Alternative, the requested ITP would not be issued, and PacifiCorp would not implement the HCP. NMFS is responsible for compliance under NEPA and is providing notice of the availability of the Final EA and is making available for public review the responses to comments on the Draft EA.

Dated: March 6, 2012.

Angela Somma,

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

[FR Doc. 2012–6078 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB078

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, March 29, 2012 at 8:30 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700.

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:

Agenda

The Groundfish Committee will meet to continue development of two management actions. The Committee will continue development of an action to modify measures that apply to sectors. This discussion is expected to focus primarily on monitoring issues, including goals and objectives and possible funding mechanisms. The Committee may also discuss full retention of allocate groundfish species and other sector framework issues. The Committee will discuss an action to establish acceptable biological catches (ABCs) and annual catch limits (ACLs) for fishing years 2013 and 2014. As part of this discussion the Committee will receive a preliminary report on recently updated assessments and may discuss further the Council's response to the

recent Gulf of Maine cod assessment. Setting ABCs/ACLs may also require modification of recreational fishing measures and the Committee may begin this discussion. The Committee may also discuss adopting additional sub-ACLs for the scallop fishery and pursuing the Mixed Stock Exception for SNE/MA windowpane flounder. The Committee will receive an update on Plan Development Team work related to possible modifications to groundfish closed areas. They will receive a report on the recent Endangered Species Act listing of Atlantic Sturgeon and will discuss ways to reduce sturgeon takes. The Committee will also discuss the rockhopper/roller gear restriction in the western Gulf of Maine and develop a recommended response to a request for clarification from the National Marine Fisheries Service. Other business may be discussed.

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

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

Dated: March 7, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–5949 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB079

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on April 10–11, 2012. The Council will convene on Tuesday, April 10th, 2012 from 9 a.m. to 5 p.m., and the Administrative Committee will meet from 5:15 p.m. to 6 p.m. The Council will reconvene on Wednesday, April 11th, 2012, from 9 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Buccaneer Hotel, 5007 Estate Shoys, Lot 7, Christiansted, St. Croix, U.S.V.I.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 142nd regular Council Meeting to discuss the items contained in the following agenda:

April 10, 2012—9 a.m. to 5 p.m.

- Call to Order
- Adoption of Agenda
- Consideration of the 141st Council Meeting Verbatim Transcriptions
- Executive Director's Report
- Litigation over CFMC Amendment and the Associated Biological Opinion
- ACLs AMs Seagrasses
- White Paper FMPs by Areas
- Regulatory Amendment on Parrotfish Trips, Size Limits, and Trap Escape Vents—Options Paper
- SSC Meeting Report
- Fishing Industry Advisory Panel Report

Public Comment Period—(5) Five-minutes Presentations

April 10, 2012—5:15 p.m. to 6 p.m.

- Administrative Committee Meeting—SSC/AP Membership

April 11, 2012—9 a.m. to 5 p.m.

- Highly Migratory Species Presentation
- Trap Reduction Project Update
- Queen Conch—ESA Petition
- Outreach and Education Advisory Panel Report
- Catch Share Project Update
- Enforcement Reports
  —Puerto Rico—DNER
  —U.S. Virgin Islands—DPNR
  —NOAA/NMFS
  —U.S. Coast Guard
- Administrative Committee Recommendations
- Meetings Attended by Council Members and Staff
- Public Comment Period (5–Minutes Presentations)
- Other Business
- Next Council Meeting

The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. To further accommodate discussion and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

The meetings are open to the public, and will be conducted in English. Simultaneous Interpretation (English/Spanish) will be provided. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: March 8, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–5981 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB034

Takes of Marine Mammals Incidental to Specified Activities; Pile Placement for Fishermen's Offshore Wind Farm

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from AMEC Environment & Infrastructure, on behalf of Fishermen's Atlantic City Windfarm, LLC (Fishermen's) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to pile driving off the New Jersey coast. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing to issue an IHA to take, by Level B harassment, bottlenose dolphins, harbor porpoises, and harbor seals during the specified activity within a specific geographic region and is requesting comments on its proposal.

DATES: Comments and information must be received no later than April 12, 2012.

ADDRESSES: Comments on the application and this proposal should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Magliocca@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specific geographical region 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 for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * *an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which U.S. citizens can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) further established a 45-day time limit for NMFS' review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On August 30, 2011, NMFS received an application from AMEC Environment & Infrastructure, on behalf of Fishermen's, requesting an IHA for the take, by Level B harassment, of small numbers of bottlenose dolphins, harbor porpoises, and harbor seals incidental to pile driving activities off the New Jersey coast. Upon receipt of additional information and a revised application, NMFS determined the application complete and adequate on February 17, 2012.

Fishermen's plans to construct a 20 megawatt offshore wind farm 4.5 kilometers (km) off the New Jersey coast. The long-term project would comprise a single row of six electric generating windmills. Pile driving is required to construct a jacketed foundation on the sea floor for each turbine. Because elevated sound levels from pile driving have the potential to result in marine mammal harassment, NMFS is proposing to issue an IHA for take incidental to pile driving activities.

Description of the Specified Activity

Fishermen's proposes to install 18 piles to create six jacketed foundations for a row of wind turbines in the Atlantic Ocean. Each foundation would consist of a three-legged structure, made up of three hollow steel pipes with an outer diameter of about 132 centimeters (cm). Each leg, or pipe, would be driven to a depth of about 46 meters (m) below the sea floor. Cross braces, placed between each leg, would provide additional support to the foundation. Each side of the foundation would measure about 16 m at the sea floor. The foundations would extend through the water column to about 14 m above mean higher high water, depending on tide levels. The top of each foundation would connect to the turbine with a transition piece, which would be welded to the foundation at about 93 m above mean higher high water. A scour protection mat would be installed at the base of each foundation to prevent ocean currents from eroding the sea floor around the foundation.

Fishermen's would use a Delmag D–100 or equivalent hydraulic hammer to install the 18 piles. The hydraulic hammer would be positioned on a heavy lift crane barge along with the lift crane, which would be used to lift the foundation off a second barge and place it on the seafloor. Each pile would require 600 to 900 blows over a period of 1 to 2 hours. The foundations' jacket structure and design are expected to lessen the amount and intensity of sound propagation because each pile would be encased within a leg of the jacket during hammering. The planned distance between each foundation is about 1,080 m. One turbine would be constructed at a time.

Fishermen's would also install a submarine electric cable to transmit power from the turbines to the shore. The cable would make landfall at a point in Atlantic City and continue underground to the existing Huron

Substation located along Absecon Avenue. The subsea cable would likely be arranged in a single string configuration and composed of three copper conductors, each 185 mm square, arranged within an insulated, single wire armored submarine electric composite cable. Fishermen's would use jet plowing to install the submarine electric cables, which is a common burial method that minimizes environmental impacts to water quality and aquatic natural resources. The jet plow device is hydraulically powered and requires a specially designed cable-laying vessel to tow it along the seafloor. As it is pulled forward, it fluidizes the sediment in such a way that the cable settles into the trench under its own weight. The subsea cable will be buried about 3 m deep from the turbine field to a point about 550 m from the shoreline. About 76 m^3 of bottom material may be displaced during the process and a 21 m^2 surface area may be disturbed. The remaining hole would be backfilled to the extent possible using previously removed material.

Date and Duration of Proposed Activity

Fishermen's plans to commence turbine installation and cable laying in the summer of 2012, pending final state and federal authorizations. Installation of all 18 piles would require a total of 12 to 15 hours of driving time. Construction of the entire wind farm is anticipated to take 4 months, but pile driving activities would occur for 15 to 24 days. Pile driving is expected to last a maximum of 24 days, during the months of May and June. NMFS would issue the IHA for a 4-month period (May–August) to allow for permitting and weather delays. Pile driving would only occur in weather that provides adequate visibility for marine mammal monitoring activities.

Region of Proposed Activity

The proposed activity would occur in state waters of New Jersey, about 4.5 km from Atlantic City. The future turbines would run roughly parallel to the coast in a single line. This location was chosen over alternative sites in New Jersey waters based on public support. Water depths at the proposed project location are 8 to 12 m at mean lower low water.

Sound Propagation

Sound is a mechanical disturbance consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound's loudness and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change. For example, 10 dB yields a sound level 10 times more intense than 1 dB, while a 20 dB level equates to 100 times more intense, and a 30 dB level is 1,000 times more intense. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are ''re: 20 μPa'' and ''re: 1 μPa,'' respectively. Root mean square (RMS) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). RMS accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units rather than by peak pressures.

Based on measurements taken around impact hammers at other in-water locations, source levels during pile driving are estimated to reach about 185 dB RMS. Assuming a practical spreading loss of 15 log R, Fishermen's estimates that the 180-dB (Level A harassment threshold) isopleth for the impact hammer would be about 50 m from the source. The 160-dB (Level B harassment threshold) isopleth would be about 500 m from the source. The foundations' jacket structure and design are expected to lessen sound levels and intensity, but the amount of sound reduction afforded by the jacket is unknown. Noise associated with other construction activities (e.g,. cable laying) is expected to be minimal.

Description of Marine Mammals in the Area of the Specified Activity

There are 42 marine mammal species with confirmed or potential occurrence off the coast of New Jersey. Of these, 20 species are regular inhabitants to the northeast Atlantic Ocean and could occur in the proposed project area at some point during the year (Table 1).

TABLE 1—MARINE MAMMAL SPECIES CONSIDERED A REGULAR OR NORMAL PART OF THE FAUNA IN THE NORTHEAST ATLANTIC OCEAN, WHICH COULD POSSIBLY OCCUR IN THE PROJECT AREA. THE ''OBSERVANCE WITHIN PROPOSED STUDY AREA'' DENOTES WHETHER OR NOT THE SPECIES WAS OBSERVED WITHIN A 170-ACRE AREA DURING RECENT VESSEL OR AERIAL SURVEYS

Common name	Scientific name	ESA Status	Time of year	Presence	Observance within proposed study area
Mysticetes·					
North Atlantic right whale	*Eubalaena glacialis*	E	Year round	Possible	Yes.
Humpback whale	*Megaptera novaeangliae*	E	Year round	Possible	Yes.
Minke whale	*Balaenoptera acutorostrata*		Winter/summer	Possible	Yes.
Sei whale	*Balaenoptera borealis*	E	N/A	Uncommon	No.
Fin whale	*Balaenoptera physalus*	E	Year round	Possible	Yes.
Odontocetes					
Bottlenose dolphin	*Tursiops truncatus*		May-August	Possible	Yes.
Atlantic spotted dolphin	*Stenella frontalis*		N/A	Uncommon	No.
Common dolphin	*Delphinus delphis*		November-March	Possible	Yes.
Atlantic white-sided dolphin	*Lagenorhynchus acutus*		N/A	Uncommon	No.
Risso's dolphin	*Grampus griseus*		N/A	Uncommon	No.
Long-finned pilot whale	*Globicephala melas*		N/A	Uncommon	No.
Short-finned pilot whale	*Globicephala macrorhynchus*		N/A	Uncommon	No.
Harbor porpoise	*Phocoena phocoena*		Fall-spring	Possible	Yes.

TABLE 1—MARINE MAMMAL SPECIES CONSIDERED A REGULAR OR NORMAL PART OF THE FAUNA IN THE NORTHEAST ATLANTIC OCEAN, WHICH COULD POSSIBLY OCCUR IN THE PROJECT AREA. THE ''OBSERVANCE WITHIN PROPOSED STUDY AREA'' DENOTES WHETHER OR NOT THE SPECIES WAS OBSERVED WITHIN A 170-ACRE AREA DURING RECENT VESSEL OR AERIAL SURVEYS—Continued

Common name	Scientific name	ESA Status	Time of year	Presence	Observance within proposed study area
Phocids					
Harbor seal	*Phoca vitulina*		Year round	Possible	Yes.
Gray seal	*Halichoerus grypus*		N/A	Possible	No.

Fishermen's proposed project area was included in a large, comprehensive ecological baseline study of New Jersey's marine waters (NJDEP, 2010). From January 2008, through December 2009, transects totaling 18,183 km were surveyed in order to collect baseline information on the distribution, abundance, and migratory patterns of coastal and marine species. Within Fishermen's project area (a 170-acre area encompassing the future wind turbine array), 611 km of study transects were dedicated to surveying for marine mammals and sea turtles. Marine mammal data were collected over the 2-year period using shipboard surveys, aerial surveys, and passive acoustic monitoring. Records show that bottlenose dolphins and a single unidentified pinniped were the only marine mammal species observed in the project area.

In January 2011, marine mammal observers were onboard the vessels conducting geophysical and geotechnical surveys of the project area. No marine mammal species were sighted during that time. Fishermen's also conducted pre-construction monitoring of the project area in order to fulfill a New Jersey Department of Environmental Protection requirement. This study was comprised of seven survey track lines, spaced about 2 km apart, and included a 2-km radius buffer zone around the proposed turbine locations. A total of 389 transects were surveyed totaling more than 140 survey hours over 2,601 km from May 2010, through May 2011. During this study, observers sighted bottlenose dolphins, fin whales, humpback whales, minke whales, harbor porpoises, and harbor seals. Bottlenose dolphins were most commonly seen and only six mysticetes (baleen whales) were observed during the study. Sightings of fin whales, humpback whales, minke whales, and harbor porpoises were only observed from late September to mid-April. Based on sightings data, habitat preference, seasonality, and the proposed project timeline, all species from Table 1 except bottlenose dolphins, harbor porpoises, and harbor seals are considered unlikely to be impacted by the proposed pile driving operations and are not discussed further. Detailed information on the species likely to be harassed during pile driving is provided below.

Bottlenose Dolphin

Bottlenose dolphins are found in a wide variety of habitats at both tropical and temperate latitudes. Depending on their habitat, they might feed on benthic fish, invertebrates, and pelagic or mesopelagic fish. They are often found in groups, most commonly of two to 15 individuals. NMFS currently recognizes 15 stocks of bottlenose dolphins in the Atlantic Ocean. Bottlenose dolphins in the proposed project area would likely be part of the Western North Atlantic Northern Migratory Coastal stock. The coastal stock is found along the inner continental shelf and around islands and often moves into or resides in bays, estuaries, and the lower reaches of rivers and has an estimated abundance of 9,604. There are insufficient data to determine the population trends for these stocks. Bottlenose dolphins are not listed under the Endangered Species Act (ESA), but the Western North Atlantic Northern Migratory Coastal stock is considered depleted under the MMPA. More information, including stock assessment reports, can be found at: *http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/bottlenosedolphin.htm.* Bottlenose dolphins, like other dolphin species and most toothed whales, are in the mid-frequency hearing group, with an estimated functional hearing range of 150 Hz to 160 kHz (Southall *et al.,* 2007).

Harbor Porpoises

Harbor porpoises reside in northern temperate and subarctic coastal and offshore waters. They are commonly found in bays, estuaries, harbors, and fjords less than 200 m deep. In the western North Atlantic, harbor porpoises range from west Greenland to Cape Hatteras, North Carolina. Harbor porpoises in U.S. waters are divided into 10 stocks, based on genetics, movement patterns, and management. During summer months, harbor porpoises are concentrated in the northern Gulf of Maine and southern Bay of Fundy region. Any harbor porpoises encountered during the proposed project would be part of the Gulf of Maine-Bay of Fundy stock, which has an estimated abundance of 89,054 animals. Population trends for all U.S. stocks of harbor porpoises are currently unknown. Gulf of Maine-Bay of Fundy harbor porpoises are not listed under the ESA nor considered depleted under the MMPA. More information, including stock assessment reports, can be found at: *http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/harborporpoise.htm.* Harbor porpoises are considered high-frequency cetaceans and their estimated auditory bandwidth (lower to upper frequency hearing cut-off) ranges from 200 Hz to 180 kHz (Southall *et al.,* 2007).

Harbor Seals

Harbor seals are typically found in temperate coastal habitats and use rocks, reefs, beaches, and drifting glacial ice as haul outs and pupping sites. On the east coast, they range from the Canadian Arctic to southern New England, New York, and occasionally the Carolinas. There are an estimated 91,000 harbor seals in the western North Atlantic stock and the population is increasing. There are three well known, long-term haul out sites in New Jersey: Sandy Hook, Barnegat Inlet, and Great Bay. However, the closest haul out (Great Bay) is about 21 km north of the proposed project area. Harbor seal abundance at this site has increased since 1994 and shows strong seasonality, with seals consistently present between November and April (Slocum *et al.,* 1999; Slocum *et al.,* 2005). No other haul out sites were identified during aerial surveys for the ecological baseline study. Harbor seals are considered the most common seal

species present in New Jersey waters, although gray seals, harp seals, and hooded seals, also appear in winter months. Harbor seals are not listed under the ESA nor considered depleted under the MMPA. More information, including stock assessment reports, can be found at: *http://www.nmfs.noaa.gov/pr/species/mammals/pinnipeds/harborseal.htm.*

Pinnipeds produce a wide range of social signals, most occurring at relatively low frequencies (Southall *et al.,* 2007), suggesting that hearing is keenest at these frequencies. Pinnipeds communicate acoustically both on land and underwater, but have different hearing capabilities dependent upon the medium (air or water). Based on numerous studies, as summarized in Southall *et al.* (2007), pinnipeds are more sensitive to a broader range of sound frequencies underwater than in air. Underwater, pinnipeds can hear frequencies from 75 Hz to 75 kHz. In air, pinnipeds can hear frequencies from 75 Hz to 30 kHz (Southall *et al.,* 2007).

Potential Effects on Marine Mammals

Elevated in-water sound levels from pile driving in the proposed project area may temporarily impact marine mammal behavior. Elevated in-air sound levels are not a concern because the nearest significant pinniped haul-out is 21 km away. Marine mammals are continually exposed to many sources of sound. For example, lightning, rain, sub-sea earthquakes, and animals are natural sound sources throughout the marine environment. Marine mammals produce sounds in various contexts and use sound for various biological functions including, but not limited to, (1) social interactions; (2) foraging; (3) orientation; and (4) predator detection. Interference with producing or receiving these sounds may result in adverse impacts. Audible distance or received levels will depend on the sound source, ambient noise, and the sensitivity of the receptor (Richardson *et al.,* 1995). Marine mammal reactions to sound may depend on sound frequency, ambient sound, what the animal is doing, and the animal's distance from the sound source (Southall *et al.,* 2007).

Hearing Impairment

Marine mammals may experience temporary or permanent hearing impairment when exposed to loud sounds. Hearing impairment is classified by temporary threshold shift (TTS) and permanent threshold shift (PTS). There are no empirical data for when PTS first occurs in marine mammals; therefore, it must be estimated from when TTS first occurs and from the rate of TTS growth with increasing exposure levels. PTS is likely if the animal's hearing threshold is reduced by ≥ 40 dB of TTS. PTS is considered auditory injury (Southall *et al.,* 2007) and occurs in a specific frequency range and amount. Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007). Due to proposed mitigation measures and source levels in the proposed project area, NMFS does not expect marine mammals to be exposed to sound levels associated with PTS.

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be louder in order to be heard. TTS can last from minutes or hours to days, but is recoverable. TTS also occurs in specific frequency ranges; therefore, an animal might experience a temporary loss of hearing sensitivity only between the frequencies of 1 and 10 kHz, for example. The amount of change in hearing sensitivity is also variable and could be reduced by 6 dB or 30 dB, for example. Recent literature highlights the inherent complexity of predicting TTS onset in marine mammals, as well as the importance of considering exposure duration when assessing potential impacts (Mooney *et al.,* 2009a, 2009b; Kastak *et al.,* 2007). Generally, with sound exposures of equal energy, quieter sounds (lower SPL) of longer duration were found to induce TTS onset more than louder sounds (higher SPL) of shorter duration (more similar to subbotom profilers). For sound exposures at or somewhat above the TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the sound ends. Southall *et al.* (2007) considers a 6 dB TTS (i.e., baseline thresholds are elevated by 6 dB) to be a sufficient definition of TTS-onset. NMFS considers TTS as Level B harassment that is mediated by physiological effects on the auditory system; however, NMFS does not consider onset TTS to be the lowest level at which Level B harassment may occur. A limited number of behavioral studies have been performed to assess the responses of mid-frequency cetaceans (such as bottlenose dolphins) to multiple pulses. Combined data show a range of behavioral responses, from temporary pauses in vocalization for received levels of 80 to 90 dB, to a lack of observable reactions for received levels of 120 to 180 dB (Southall, *et al.,* 2007). Data on behavioral reactions of pinnipeds to multiple pulses is also limited, but suggests that exposures in the 150 to 180 dB range have limited potential to induce avoidance behavior (Southall *et al.,* 2007). Some studies suggest that harbor porpoises may be more sensitive to sound than other odontocetes (Lucke *et al.,* 2009 and Kastelein *et al.,* 2011). Although TTS onset may occur in harbor porpoises at lower received levels (when compared to other odontocetes), NMFS' Level B harassment threshold is based on the onset of behavioral harassment, not TTS. However, the potential for TTS is considered in NMFS' analysis of potential impacts from Level B harassment.

Behavioral Disturbance

Behavioral responses to sound are highly variable and context-specific. An animal's perception of and response to (in both nature and magnitude) an acoustic event can be influenced by prior experience, perceived proximity, bearing of the sound, familiarity of the sound, etc. (Southall *et al.,* 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or populations. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of activities and/or exposed to a particular level of sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

Impulse Sounds

The only sounds from the proposed activity expected to result in the harassment of marine mammals are impulse sounds associated with impact pile driving. Southall *et al.* (2007) addresses behavioral responses of marine mammals to impulse sounds (like impact pile driving). The studies that address the responses of mid-frequency cetaceans to impulse sounds include data gathered both in the field

and the laboratory and related to several different sound sources (of varying similarity to boomers), including: Small explosives, airgun arrays, pulse sequences, and natural and artificial pulses. The data show no clear indication of increasing probability and severity of response with increasing received level. Behavioral responses seem to vary depending on species and stimuli. Data on behavioral responses of high-frequency cetaceans to multiple pulses is not available. Although individual elements of some non-pulse sources (such as pingers) could be considered pulses, it is believed that some mammalian auditory systems perceive them as non-pulse sounds (Southall *et al.,* 2007).

The studies that address the responses of pinnipeds in water to impulse sounds include data gathered in the field and related to several different sources, including: Small explosives, impact pile driving, and airgun arrays. Quantitative data on reactions of pinnipeds to impulse sounds is limited, but a general finding is that exposures in the 150 to 180 dB range generally have limited potential to induce avoidance behavior (Southall *et al.,* 2007).

No impacts to marine mammal reproduction are anticipated because there are no known pinniped rookeries or cetacean breeding grounds within the proposed project area. Marine mammals may avoid the area around the hammer, thereby reducing their exposure to elevated sound levels. NMFS expects any impacts to marine mammal behavior to be temporary, Level B harassment (for example, avoidance or alteration of behavior). Fishermen's conservatively assumes a maximum of 24 pile driving days may occur over the validity of the IHA. Marine mammal injury or mortality is not likely, as the 180 dB isopleth (NMFS' Level A harassment threshold for cetaceans) for the impact hammer is expected to be less than a 50-m radius. Fishermen's proposes to continuously monitor a 1,000-m area around the sound source and reduce or cease all pile driving to prevent Level A harassment to marine mammals.

Anticipated Effects on Habitat

The installation of piles and submarine electric cable would result in both temporary disturbance and limited, but permanent, loss of benthic habitat. These effects would be limited to the area within the project footprint and along the cable route where sediment disturbing activities would occur. The cable installation process would temporarily affect benthic resources and habitat by entrainment of microorganisms and displacement or burial of other benthic resources. However, since the jetting and cable laying process occurs very slowly (less than 1 knot speed by the vessel), most mobile organisms are likely to avoid the area. Installation may result in a temporary loss of forage items and a temporary reduction in the amount of benthic habitat available for foraging marine mammals. However, there are no known foraging grounds around the project area, so marine mammals in the area would likely be foraging opportunistically. The cable route has been designed to avoid submerged aquatic vegetation. Impacts associated with cable installation and vessel anchoring would be temporary and localized.

Pile driving (resulting in temporary ensonification) may impact prey species and marine mammals by causing avoidance or abandonment of the area; however these impacts are expected to be local and temporary. Installation of the jacketed foundations and associated scour protection would result in the permanent loss of less than one acre of benthic habitat. However, this loss is not likely to have a measurable adverse impact on marine mammal foraging activity due to the limited size and lack of known or significant foraging grounds in the proposed project area. The total impacted area represents less than one percent of similar bottom habitat in the proposed project area. Furthermore, the vertical foundation structure that would be added to the environment may provide additional habitat and foraging opportunities to marine species. The effects of habitat loss or modification to marine mammals are expected to be insignificant or discountable.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth, where applicable, the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses. Fishermen's proposed the following mitigation measures to minimize adverse impacts to marine mammals:

Exclusion Zone

The purpose of an exclusion zone is to prevent Level A harassment (injury) of any marine mammal species. Fishermen's proposes to establish a radius around each pile driving site that would be continuously monitored for marine mammals. If a marine mammal is observed nearing or entering this perimeter, Fishermen's would reduce hammering power (or stop hammering) to reduce the sound pressure levels. More specifically, Fishermen's would establish a preliminary 1,000-m exclusion zone around each pile driving site, based on the estimated rates of sound attenuation discussed earlier in this notice. This distance is considered conservative because it would encompass the estimated 180-dB isopleth, within which injury could occur, plus an additional 950-m buffer. The 1,000-m exclusion zone would also encompass the estimated 160-dB isopleth (less than 500 m), within which behavioral harassment could occur. Fishermen's would perform field verification of the impact hammer's resulting sound pressure levels to ensure that estimated distances to the 180-dB (Level A) and 160-dB (Level B) isopleths are accurate. Once hydroacoustic monitoring is conducted, the exclusion zone may be adjusted accordingly so that marine mammals are not exposed to Level A harassment sound pressure levels. Any new exclusion zone would encompass the 180-dB and 160-dB isopleth to avoid any takes of ESA-listed species. The exclusion zone would be monitored continuously during impact pile driving to ensure that no marine mammals enter the area. If a marine mammal is nearing or enters the 1,000-m zone, hammering would be reduced to 50 percent capacity, which would reduce the 160 dB isopleth to about 300 m. If a marine mammal continues to move toward the Level B harassment zone, Fishermen's is prepared to stop all pile driving activities in order to prevent Level A harassment to marine mammals. Fishermen's initially proposed having a single protected species observer (PSO) to monitor the exclusion zone. However, following NMFS recommendation, Fishermen's plans to use two PSOs, each responsible for monitoring a 180-degree field of vision. The PSOs would be stationed aboard a dedicated support vessel that would patrol the exclusion zone throughout pile driving.

Pile Driving Shut Down and Delay Procedures

If a PSO sees a marine mammal within or approaching the exclusion zone (1,000 m) prior to start of impact pile driving, the observer would notify the construction manager (or other authorized individual) who would then be required to delay pile driving until the marine mammal has moved outside of the exclusion zone or if the animal

has not been resighted within 30 minutes. If a marine mammal is sighted within or on a path toward the exclusion zone during pile driving, pile driving would be reduced to 50 percent capacity (a soft start level), which would reduce the size of the harassment zones. If an animal continues to move toward the sound source, then pile driving operations will be stopped until the animal has moved outside of the exclusion zone or 30 minutes have lapsed since the last sighting.

Soft-Start Procedures

A ''soft-start'' technique would be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before the pile hammer reaches full energy. The soft start requires an initial set of three strikes from the impact hammer at 40 percent energy with a 1-minute waiting period between subsequent three-strike sets. If a marine mammal is observed within the exclusion zone prior to pile driving, or during the soft start, the resident engineer (or other authorized individual) would delay pile driving until the animal has move outside of the exclusion zone or 30 minutes have lapsed since the last sighting. Soft-start procedures would be conducted any time hammering ceases for more than 30 minutes.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

Fishermen's proposes to conduct field verification of the exclusion zone during pile driving of the first three jacket foundations to ensure that the estimated harassment isopleths are accurate. Fishermen's proposes taking acoustic measurements during the last half (deepest segment) of pile driving for any given jacket foundation leg. NMFS further proposes that acoustic measurements be taken during the entire duration of pile driving of the first three jacket foundations (as opposed to the last half of pile driving) to ensure that the highest sound pressure levels are measured. Fishermen's proposes establishing one reference location at a distance of 100 m from the sound source. They would take sound measurements at the reference location at two depths (one near the middle of the water column and one near the bottom of the water column). Two additional in-water spot measurements would be taken in two different directions of the pile driving site. Sound measurements would also be made at locations closer to or farther from the sound source, as necessary, to establish the distances to the Level B and Level A harassment zones. NMFS further proposes that sound measurements be taken 10 m from the pile, so the measurements can be treated considered ''source level'' and compared with other industry-collected data. NMFS also proposes that 90 percent of the energy window from each blow be integrated into Fishermen's sound analysis when computing RMS sound pressure levels.

As explained in the Proposed Mitigation section of this notice, there would be two PSOs monitoring the exclusion zone (1,000 m). Because the exclusion zone encompasses both the Level B and Level A harassment isopleths, PSOs can record behavioral information of animals visible outside of the exclusion zone. PSOs would monitor the exclusion zone for at least 30 minutes prior to soft start, during pile driving, and for 30 minutes after pile driving is completed. Protected species observers would be provided with the equipment necessary to effectively monitor for marine mammals (for example, high-quality binoculars, compass, and range-finder) in order to determine if animals have entered into the exclusion zone and to record species, behaviors, and responses to pile driving. Fishermen's would provide weekly status reports to NMFS that include a summary of the previous week's monitoring activities and an estimate of the number of marine mammals that may have been harassed as a result of pile driving. PSOs would submit a comprehensive report to NMFS within 90 days of completion of pile driving.

The report would include data from marine mammal sightings (such as date, time, location, species, group size, and behavior), any observed reactions to construction, distance to operating pile hammer, and construction activities occurring at time of sighting and environmental data for the period (wind speed and direction, Beaufort sea state, cloud cover, and visibility).

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury, or mortality, Fishermen's would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Northeast Regional Stranding Coordinator (*Mendy.Garron@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hrs preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hrs preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Fishermen's to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Fishermen's may not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that Fishermen's discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), Fishermen's would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Northeast Regional Stranding Coordinator at 978–281–9300 (*Mendy.Garron@noaa.gov*). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with Fishermen's to determine whether

modifications in the activities are appropriate.

In the event that Fishermen's discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Fishermen's would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the NMFS Northeast Stranding Hotline (866–755–6622) and/or by email to the Northeast Regional Stranding Coordinator (*Mendy.Garron@noaa.gov*), within 24 hrs of the discovery. Fishermen's would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Current NMFS practice regarding exposure of marine mammals to anthropogenic noise is that in order to avoid the potential for injury (PTS), cetaceans and pinnipeds should not be exposed to impulsive sounds of 180 and 190 dB or above, respectively. This level is considered precautionary as it is likely that more intense sounds would be required before injury would actually occur (Southall *et al.,* 2007). Potential for behavioral Level B harassment is considered to have occurred when marine mammals are exposed to sounds at or above 160 dB for impulse sounds (such as impact pile driving) and 120 dB for non-pulse noise (such as vibratory pile driving).

Distances to NMFS' harassment thresholds were calculated based on the expected sound levels at each source and the expected attenuation rate of sound. Fishermen's proposed 1,000-m exclusion zone is larger than both the Level A and Level B harassment zones. This mitigation measure minimizes potential impacts to marine mammals from increased sound exposures and means that Fishermen's would significantly reduce sound exposures before an animal ever enters the Level B harassment zone (less than 500 m). The difference between the exclusion zone (1,000 m) and the Level A harassment threshold (less than 50 m) provides PSOs additional time and adequate visibility to prevent marine mammals from being exposed to injurious sound levels if an animal (e.g., a small dolphin or pinniped) enters the exclusion zone undetected.

Fishermen's estimated the number of marine mammals potentially taken by using their 2010–2011 pre-construction survey data as site-specific density estimates for the project area over a 12-month period. During that survey, Fishermen's observed 260 bottlenose dolphins, three humpback whales, two fin whales, one minke whale, two harbor seals, and five harbor porpoises. However, the survey was performed over a 12-month period, whereas pile driving would only take place between May and June. The only marine mammal species observed during May and June were bottlenose dolphins and an unidentified harbor seal. Fishermen's considered the expected number of pile driving days and requested authorization for the Level B incidental take of five bottlenose dolphins. NMFS determined that this number does not adequately account for the likelihood that numerous animals went undetected during visual surveys. To account for this, NMFS multiplied species group size by the maximum number of pile driving days. More specifically, NMFS used the average group size of bottlenose dolphins observed between May and June during the pre-construction survey and multiplied this number by 24 (the maximum number of pile driving days. Because harbor porpoises were never observed during the months of May and June, NMFS conservatively used the maximum group size (two) of harbor porpoises observed during the entire pre-construction survey. NMFS also used the maximum group size (two) of harbor seals observed during the entire pre-construction survey. These calculations are illustrated below in Table 2.

TABLE 2—NMFS' METHOD FOR CALCULATING POTENTIAL TAKE OF MARINE MAMMALS DURING FISHERMEN'S PROPOSED ACTIVITY

Species	Group size	Maximum number of pile driving days	Proposed take [1]
Bottlenose dolphin	[2] 5	24	120
Harbor porpoise	[3] 2	24	48
Harbor seal	[3] 2	24	48

[1] Proposed take was calculated by multiplying group size and the maximum number of pile driving days.
[2] NMFS used the average group size of bottlenose dolphins observed during the pre-construction survey for the months of May and June (when pile driving would occur).
[3] NMFS conservatively used the maximum group size of harbor porpoises and harbor seals observed during the entire pre-construction survey.

NMFS is proposing to authorize the take of 120 bottlenose dolphins, 48 harbor porpoises, and 48 harbor seals. The increase in proposed take is based on the likelihood that smaller animals may not have been detected during surveys, but may be present in the proposed project area during pile driving. These numbers are conservative, do not account for mitigation measures, and indicate the maximum number of animals expected to occur within proposed project area—an area much larger than the 1,000-m exclusion zone isopleth. Takes of other species (e.g., humpback whale, fin whale, minke whale) were not proposed because they are highly likely to be sighted before entering the exclusion zone. Furthermore, the proposed activity is planned to occur primarily during summer months when these species are unlikely to be in the area.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an

impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a number of factors which include, but are not limited to, the number of anticipated injuries or mortalities (none of which would be authorized here), number, nature, intensity, and duration of Level B harassment, and the context in which takes occur.

As described above, marine mammals would not be exposed to activities or sound levels which would result in injury (PTS), serious injury, or mortality. The proposed project area is not considered significant habitat for marine mammals. The closest significant pinniped haul out is 21 km away, which is well outside the project area's largest harassment zone. Marine mammals approaching the action area would likely be traveling or opportunistically foraging. The amount of take NMFS proposes to authorize is considered small (less than three percent) relative to the estimated populations of 9,604 bottlenose dolphins, 89,054 harbor porpoises, and 91,000 harbor seals. Marine mammals may be temporarily impacted by pile driving noise. However, marine mammals may avoid the area, thereby reducing exposure and impacts, and mitigation measures would minimize any impacts and further reduce the risk of injury or mortality prevent injury. Pile driving activities are expected to occur for about 15–24 days total. There is no anticipated effect on annual rates of recruitment or survival of affected marine mammals. Based on the application and subsequent analysis, the impact of the described pile driving operations may result in, at most, short-term modification of behavior by small numbers of marine mammals within the action area. Marine mammals may avoid the area or temporarily alter their behavior at time of exposure.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily determines that Fishermen's proposed pile driving operations would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking would have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Endangered Species Act (ESA)

Fishermen's is not requesting, nor is NMFS proposing, take of ESA-listed species; therefore, ESA consultation is not necessary for issuance of the proposed IHA.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS is preparing an Environmental Assessment (EA) to consider the environmental impacts of issuance of a 1-year IHA. Upon completion, this EA will be available on the NMFS Web site listed in the beginning of this document (see **ADDRESSES**).

Dated: March 7, 2012.

Helen M. Golde,

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

[FR Doc. 2012–6058 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA961

Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the South-Eastern Pacific Ocean, May, 2012

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

ACTION: Notice; proposed Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received an application from the Scripps Institution of Oceanography (SIO) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a low-energy marine geophysical (*i.e.,* seismic) survey in the south-eastern Pacific Ocean, May, 2012. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to SIO to incidentally harass, by Level B harassment only, 20 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than April 12, 2012.

ADDRESSES: Comments on the application should be addressed 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. The mailbox address for providing email comments is *ITP.Goldstein@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

The National Science Foundation (NSF) has prepared a draft ''National Environmental Policy Act Analysis Pursuant to Executive Order 12114 of a Marine Geophysical Survey by the R/V *Melville* in the South-Eastern Pacific Ocean May 2012 (EA).'' The draft EA incorporates an ''Environmental Analysis of a Marine Geophysical Survey by the R/V *Melville* in the South-Eastern Pacific Ocean off Chile, May 2012,'' prepared by LGL Ltd., Environmental Research Associates (LGL), on behalf of NSF and SIO, which is also available at the same internet address. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371(a)(5)(D)) directs the Secretary of Commerce (Secretary) to authorize, upon request, the incidental, but not intentional, taking of small

numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for the incidental taking of small numbers of marine mammals shall be granted 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 subsistence uses (where relevant). The authorization must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as '' * * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS's review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

NMFS received an application on December 23, 2011, from SIO for the taking by harassment, of marine mammals, incidental to conducting a low-energy marine seismic survey in the south-eastern Pacific Ocean. SIO, a part of the University of California San Diego, with research funding from the NSF, plans to conduct a low-energy seismic survey in the South-Eastern Pacific Ocean off the coast of Chile during May, 2012, for approximately five to 11 days. The survey will use a pair of Generator Injector (GI) airguns each with a discharge volume of 45 cubic inches (in^3). SIO plans to conduct the proposed survey from approximately May 4 to 18, 2012. The proposed seismic survey will be conducted in the Exclusive Economic Zone (EEZ) of Chile. On behalf of SIO, the U.S. State Department will seek authorization from Chile for clearance to work in its EEZ.

SIO plans to use one source vessel, the R/V *Melville* (*Melville*) and a seismic airgun array to collect seismic reflection and refraction profiles to monitor the post-seismic response of the outer acretionary prism, the area where sediments are accreted onto the non-subducting tectonic plate at the convergent plate boundary off of the coast of Chile. In addition to the proposed operations of the seismic airgun array, SIO intends to operate a multibeam echosounder (MBES) and a sub-bottom profiler (SBP) continuously throughout the survey.

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause a short-term behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities and SIO has requested an authorization to take 20 species of marine mammals by Level B harassment. Take is not expected to result from the use of the MBES or SBP, for reasons discussed in this notice; nor is take expected to result from collision with the vessel because it is a single vessel moving at a relatively slow speed during seismic acquisition within the survey, for a relatively short period of time (approximately five to 11 days). It is likely that any marine mammal would be able to avoid the vessel.

Description of the Proposed Specified Activity

SIO's proposed seismic survey in the south-eastern Pacific Ocean will take place for approximately 5 to 11 days in May, 2012 (see Figure 1 of the IHA application). The proposed seismic survey will take place in water depths ranging from approximately 1,000 to 5,300 meters (m) (3,280.8 to 17,388.5 feet [ft]) and the program will consist of approximately 1,145 kilometers (km) (618.3 nautical miles [nmi]) of seismic survey tracklines (see Figure 1 of the IHA application). The survey will take place in the area approximately 34° to 36° South, 72° to 74° West, off the coast of Chile. The project is scheduled to occur from approximately May 4 to 18, 2012. Some minor deviation from these dates is possible, depending on logistics and weather.

The survey will involve one source vessel, the *Melville.* For the seismic component of the research program, the *Melville* will deploy an array of two low-energy Sercel Generator Injector (GI) airguns as an energy source (each with a discharge volume of 45 in^3) at a tow depth of 2 m (6.6 ft). The acoustic receiving system will consist of a 200 to 800 m (656.2 to 2,624.7 ft) hydrophone streamer with up to 48 channels with 12.5 m (41 ft) channel spacing, and broadband Ocean Bottom Seismometers (OBSs). The energy to the airguns is compressed air supplied by compressors on board the source vessel. As the airgun is towed along the survey lines, the hydrophone streamer will receive the returning acoustic signals and transfer the data to the on-board processing system. The OBSs acquire the signal, process the data, and log it internally until the instrument is retrieved and the data is recovered.

SIO plans to use conventional low-energy seismic methodology to monitor the post-seismic response of the outer accretionary prism, the area where sediments are accreted onto the non-subducting tectonic plate at the convergent plate boundary. To provide constraints on the fault structure and seismic stratigraphy in the accretionary wedge, high resolution seismic data will be acquired using two GI airguns shot simultaneously. Simultaneous shots from both airguns will provide penetration to basement in the trench and clearly define fault structures and folds in the slop basin sediments that overlie the accretionary complex. The primary tracklines, approximately 569 km (307.2 nmi), identified in Figure 1 of the IHA application, will be surveyed first. Depending on the weather, quality and at sea conditions, efforts will be made to survey the secondary tracklines, approximately 576 km (311 nmi), identified in Figure 1 of the IHA application. During the survey OBSs will be deployed and survey profiles will be taken along the tracklines that extend from the trench across the accretionary complex to the region of greatest slip. These data will be processed onboard the vessel and will be used to optimize the location of remaining profiles to be collected within the survey site area. In addition

to the operations of the airgun array, a MBES and SBP will also be operated from the *Melville* continuously throughout the cruise. There will be additional seismic operations associated with equipment testing, start-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In SIO's calculations, 25% has been added for those contingency operations.

All planned geophysical data acquisition activities will be conducted by technicians provided by SIO, with on-board assistance by the scientists who have proposed the study. The Principal Investigator (PI) is Dr. Anne Trehu of Oregon State University. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

Vessel Specifications

The *Melville* is operated by the SIO under a charter agreement with the U.S. Office of Naval Research. The title of the vessel is held by the U.S. Navy. The *Melville* will tow the two GI airgun array, as well as the hydrophone streamer, along predetermined lines.

The vessel has a length of 85 m (278.9 ft); a beam of 14 m (45.9 ft), and a full load draft of 5.0 m (16.4 ft). The ship is powered by two 1,385 horsepower (hp) propulsion General Electric motors and a 900 hp retracting azimuthing bow thruster. An operations speed of approximately 8 to 12 km/hour (hr) (4 to 6 knots [kt]) and 15 to 18.5 km/hr (8 to 10 kt) will be used during seismic acquisition within the survey areas and between stations, respectively. When not towing seismic survey gear, the *Melville* cruises at 21.7 km/hr (11.7 kt) and has a maximum speed of 25.9 km/hr (14 kt). The *Melville* has an operating range of approximately 18,630 km (10,059.4 nmi) (the distance the vessel can travel without refueling).

The vessel will also serve as a platform for which vessel-based Protected Species Observers (PSOs) will watch for marine mammals before and during the proposed airgun operations.

Acoustic Source Specifications

Seismic Airguns

The *Melville* will deploy and tow an array consisting of a pair of 45 in^3 Sercel GI airgun and a streamer containing hydrophones along predetermined lines. Seismic pulses will be emitted at intervals of approximately eight to 12 seconds (s). At speeds of approximately eight to 12 km/hr through the water, the eight to 12 s spacing corresponds to shot intervals of approximately 25 m (82 ft).

The generator chamber of each GI airgun, the one responsible for introducing the sound pulse into the ocean, is 45 in^3, depending on how it is configured. The injector chamber injects air into the previously-generated bubble to maintain its shape, and does not introduce more sound into the water. The two GI airguns will be towed 8 m (26.2 ft) apart side-by-side, 21 m (68.9 ft) behind the *Melville,* at a depth of 2 m (6.6 ft). Depending on the configuration, the total effective volume will be 90 in^3 or 210 in^3. As a precautionary measure, SIO assumes that the larger volume will be used.

As the GI airguns are towed along the survey lines, the towed hydrophone array in the streamer receive the reflected signals and transfer the data to the on-board processing system. The OBSs acquire the signal, process the data, and log it internally until the instrument is retrieved and the data is recovered. Given the relatively short streamer length behind the vessel, the turning rate of the vessel while the gear is deployed is much higher than the limit of five degrees per minute for a seismic vessel towing a streamer of more typical length (much greater than 1 km [0.5 nmi]). Thus maneuverability of the vessel is not limited much during operations.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re: 1 μPa. SPL (in decibels [dB]) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement and can be expressed as the peak, the peak-peak (p-p), or the root mean square (rms). Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take the duration of a sound into account.

Characteristics of the Airgun Sounds

Airguns function by venting high-pressure air into the water which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sounds that travel horizontally toward non-target areas.

The nominal downward-directed source levels of the airgun arrays used by SIO on the *Melville* do not represent actual sound levels that can be measured at any location in the water. Rather they represent the level that would be found 1 m (3.3 ft) from a hypothetical point source emitting the same total amount of sound as is emitted by the combined GI airguns. The actual received level at any location in the water near the GI airguns will not exceed the source level of the strongest individual source. In this case, that will be about 234.4 dB re 1 μPam peak, or 239.8 dB re 1 μPam peak-to-peak. However, the difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors.

Accordingly, Lamont-Doherty Earth Observatory of Columbia University (L–DEO) has predicted the received sound levels in relation to distance and direction from the two GI airgun array. A detailed description of L–DEO's modeling for marine seismic source arrays for species mitigation is provided in Appendix A of NSF's EA. These are the nominal source levels applicable to downward propagation. The effective source levels for horizontal propagation are lower than those for downward propagation when the source consists of numerous airguns spaced apart from one another.

Appendix A of NSF's EA discusses the characteristics of the airgun pulses. NMFS refers the reviewers to the application and EA documents for additional information.

Predicted Sound Levels for the Airguns

Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 45 in^3 GI airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airguns where

sound levels of 190, 180, and 160 dB re 1 μPa (rms) are predicted to be received in deep water are shown in Table 1 (see Table 1 of the IHA application).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern GOM in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009). Results of the 36 airgun array are not relevant for the two GI airguns to be used in the proposed survey. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). Measurements were not made for the two GI airgun array in deep water, however, SIO proposes to use the EZ predicted by L–DEO's model for the proposed GI airgun operations in deep water, although they are likely conservative given the empirical proposed GI airgun operations in deep water. Using the L–DEO model, Table 1 (below) shows the distances at which three rms sound levels are expected to be received from the two GI airgun array. The 180 and 190 dB re 1 μPa (rms) distances are the safety criteria for potential Level A harassment as specified by NMFS (2000) and are applicable to cetaceans and pinnipeds, respectively. If marine mammals are detected within or about to enter the appropriate EZ, the airguns will be shut-down immediately. Table 1 summarizes the predicted distances at which sound levels (160, 180, and 190 dB [rms]) are expected to be received from the two GI airgun array operating in deep water depths.

TABLE 1—DISTANCES TO WHICH SOUND LEVELS ≥ 190, 180, AND 160 DB RE 1 μPA (RMS) COULD BE RECEIVED IN DEEP WATER DURING THE PROPOSED SEISMIC SURVEY IN THE SOUTH-EASTERN PACIFIC OCEAN, MAY, 2012

Source and volume	Tow depth (m)	Water depth (m)	Predicted RMS Radii Distances (m)		
			190 dB	180 dB	160 dB
Two GI airguns (45 in^3)	2	Deep (> 1,000)	10	40	350

Distances are based on model results provided by L–DEO.

MBES

The *Melville* will operate a Kongsberg EM 122 MBES operates at 10.5 to 13 (usually 12) kHz and is hull-mounted on the Melville. The transmitting beamwidth is 1° fore-aft and 150° athwartship. The maximum source level is 242 dB re 1 μPam (rms). Each ''ping'' consists of eight (in water >1,000 m deep) or four (<1,000 m) successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore-aft. Continuous-wave pulses increase from 2 to 15 milliseconds (ms) long in water depths up to 2,600 m (8,530.2 ft), and FM chirp pulses up to 100 ms long are used in water greater than 2,600 m. The successive transmissions span an overall cross-track angular extent of about 150°, with 2 ms gaps between the pulses for successive sectors.

SBP

The *Melville* will also operate an Knudsen Engineering Model 3260 SBP continuously throughout the cruise simultaneously with the MBES to map and provide information about the sedimentary features that occur below the sea floor. The SBP is capable of reaching depths of 10,000 m (32,808.4 ft). The beam is transmitted as a 27° cone, which is directed downward by a 3.5 kHz transducer array mounted on the hull of the *Melville.* The nominal power output is 10 kilowatts (kW) or 222 dB re 1 μPam. The ping duration is up to 64 ms, and ping interval is 1 s. A common mode of operation is to broadcast five pings at 1 s intervals followed by a 5 s pause. The 12 kHz section is seldom used in survey mode on the *Melville* because of overlap with the operating frequency of the Kongsberg EM 122 MBES.

NMFS expects that acoustic stimuli resulting from the proposed operation of the two GI airgun array has the potential to harass marine mammals, incidental to the conduct of the proposed seismic survey. NMFS expects these disturbances to be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. NMFS does not expect that the movement of the *Melville,* during the conduct of the seismic survey, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (approximately 8 to 12 km/hr [4 to 6 kt] and 15–18.5 km/hr [8 to 10 kt]) during seismic acquisition.

OBS Description and Deployment

Approximately 10 broadband OBSs will be deployed and recovered by the *Melville* during the proposed survey. L–DEO OBS08 model broadband OBSs will be used during the cruise. This type of OBS has a height of approximately 122 centimeters (cm) (48 inches [in]) and width and depth of 76.2 x 106.7 cm (30 x 42 in). The anchor is made of two steel cylinders approximately 15 cm (5.9 in) in diameter and 46 cm (18.1 in) in length. Each cylinder weighs approximately 75 pounds (lbs) (34 kilograms [kg]) in the air. OBSs will remain on the seafloor to continue to collect data for approximately one year. Once an OBS is ready to be retrieved, an acoustic release transponder interrogates the instrument at a frequency of 9 to 11 kilohertz (kHz), and a response is received at a frequency of 9 to 13 kHz. The burn-wire release assembly is then activated, and the instrument is released from the anchor to float to the surface.

Description of the Proposed Dates, Duration, and Specified Geographic Region

The *Melville* is expected to depart and return to Valparaiso, Chile. The cruise is scheduled to occur for approximately five to 11 days from May 4 to 18, 2012. Some minor deviation from this schedule is possible, depending on logistics and weather. The survey will occur in the area approximately 34° to 35° South, approximately 72° to 74° West (see Figure 1 of the IHA application). Water depths in the survey area generally range from approximately 1,000 to 5,300 m (3,280.8 to 17,388.5 ft). The seismic survey will be conducted in the EEZ of Chile, approximately 50 km (27 nmi) off the coast.

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Thirty-two marine mammal species could occur in the south-eastern Pacific Ocean survey area. Twenty-eight cetacean species (22 odontocetes and 6 mysticetes) and four pinniped species could occur in the south-eastern Pacific Ocean study area. Several of these species are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including the humpback (*Megaptera*

novaeangliae), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whale.

An additional 12 cetacean species, although present in the wider south-eastern Pacific Ocean, likely would not be found in the proposed seismic survey area because their ranges in the survey area are extralimital, or they are typically found in coastal water. Southern right whales (*Eubalaena australis*) are listed as endangered under the ESA. Sightings are seen on rare occasions off the coasts of Peru and Chile (Aguayo *et al.,* 1992; Santillan *et al.,* 2004), although females with calves have been observed between June and October. Given the size of this population, estimated at 50 individuals, in Chile and Peru (IWC, 2007; ICW, 2007b) and the rarity of the species in the survey area, it is unlikely that individuals from this subpopulation will be encountered. Pygmy right whales (*Caperea marginata*) are rarely seen at sea, but are known from stranding records off Chile (Cabrera *et al.,* 2005). Little is known about Arnoux's beaked whale (*Berardius arnuxii*) as they are rarely seen, but typically they are found between the Antarctic continent and 34° South. The northernmost limit of their range overlaps with the survey area, but no records of their occurrence exist within the survey area. The spade toothed beaked whale (*Mesoplodon traversii*) and Shepherd's beaked whale (*Tasmacetus shepherdi*) are uncommon species, but individuals have been described from stranding records in the Juan Fernandez Archipelago in Chile (Reyes *et al.,* 1996) approximately 700 km (378 nmi) west of the survey site. The ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*), pygmy beaked whale (*Mesoplodon peruvianus*), and the long-beaked common dolphin (*Delphinus capensis*) are likely extralimital with distributions mostly north of the survey area. The Commerson's dolphin (*Cephalorhynchus commersonii*), hourglass dolphin (*Lagenorhynchus cruciger*), and southern bottlenose whale (*Hyperoodon planifrons*) are also extralimital in the survey area, but have a northernmost extent that is south of the survey area.

No cetacean distribution and abundance studies have been conducted in the proposed survey area. The closest distribution studies have been in the Eastern Tropical Pacific (ETP) and Patagonia, in southern Chile. Several other studies of marine mammal distribution and abundance have been conducted in the wider ETP. The most extensive regional distribution and abundance data come primarily from multi-year vessel surveys conducted by NMFS's Southwest Fisheries Science Center (SWFSC). The surveys were conducted during July to December in an area generally extending from 30° North to 18° South from the coastline to 153° West (Wade and Gerrodette, 1993; Ferguson and Barlow, 2001; Gerrodette *et al.,* 2008; and Jackson *et al.,* 2008).

The marine mammals that occur in the proposed survey area belong to three taxonomic groups: odontocetes (toothed whales and dolphins), mysticetes (baleen whales), and pinnipeds (seals, sea lions, and walrus). Cetaceans and pinnipeds are the subject of the IHA application to NMFS.

Table 2 (below) presents information on the abundance, distribution, population status, conservation status, and density of the marine mammals that may occur in the proposed survey area during May, 2012.

TABLE 2—THE HABITAT, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE SOUTH-EASTERN PACIFIC OCEAN

[See text and Tables 2 to 3 in SIO's application for further details]

Species	Habitat	Abundance	ESA [1]	MMPA [2]	Density (#/1,000 km^2) [3]
Mysticetes					
Humpback whale (*Megaptera novaeangliae*).	Mainly nearshore waters and banks.	[6] 2,900 (SE Pacific)	EN	D	[4] 0.8
Minke whale (*Balaenoptera acutorostrata*).	Coastal	[7] 338,000	NL	NC	[4] 0.8
Bryde's whale (*Balaenoptera edeni*).	Pelagic and coastal	130,008	NL	NC	0.96
Sei whale (*Balaenoptera borealis*)	Mostly pelagic	[8] 11,000	EN	D	[5] 0.01
Fin whale (*Balaenoptera physalus*).	Slope, mostly pelagic	[9] 15,178	EN	D	[5] 0.01
Blue whale (*Balaenoptera musculus*).	Pelagic and coastal	[10] 1,415	EN	D	2.44
Odontocetes					
Sperm whale (*Physeter macrocephalus*).	Usually deep pelagic, steep topography.	[11] 26,053	EN	D	3.95
Pygmy sperm whale (*Kogia breviceps*).	Deep waters off shelf	[12] 150,000	NL	NC	0.03
Dwarf sperm whale (*Kogia sima*)	Deep waters off shelf	[12] 150,000	NL	NC	0.03
Cuvier's beaked whale (*Ziphius cavirostris*).	Slope and pelagic	[13] 20,000	NL	NC	0.80
Blainville's beaked whale (*Mesoplodon densirostris*).	Slope and pelagic	[14] 25,300	NL	NC	0.80
Gray's beaked whale (*Mesoplodon grayi*).	Slope and pelagic	NA	NL	NC	NA
Hector's beaked whale (*Mesoplodon hectori*).	Slope and pelagic	NA	NL	NC	NA
Strap-toothed beaked whale (*Mesoplodon layardii*).	Slope and pelagic	NA	NL	NC	NA
Unidentified *Mesoplodon* spp	Slope and pelagic	NA	NL	NC	0.36

TABLE 2—THE HABITAT, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE SOUTH-EASTERN PACIFIC OCEAN—Continued

[See text and Tables 2 to 3 in SIO's application for further details]

Species	Habitat	Abundance	ESA [1]	MMPA [2]	Density (#/1,000 km^2) [3]
Rough-toothed dolphin (*Steno bredanensis*).	Mainly pelagic	107,633	NL	NC	4.19
Bottlenose dolphin (*Tursiops truncatus*).	Coastal, shelf, pelagic	335,834	NL	NC D—Western North Atlantic coastal.	17.06
Spinner dolphin (*Stenella longirostris*).	Coastal and pelagic	1,797,716	NL	NC	35.70
Striped dolphin (*Stenella coeruleoalba*).	Off continental shelf	964,362	NL	NC D—Eastern	67.80
Short-beaked common dolphin (*Delphinus delphis*).	Shelf, pelagic, high relief	3,127,203	NL	NC	110.90
Risso's dolphin (*Grampus griseus*).	Shelf, slope, seamounts	110,457	NL	NC	10.21
False killer whale (*Pseudorca crassidens*).	Pelagic	398,009	NL Proposed EN—insular Hawaiian.	NC	0.39
Killer whale (*Orcinus orca*)	Widely distributed	[15] 8,500	NL EN—Southern resident.	NC D—Southern resident, AT1 transient.	0.85
Long-finned pilot whale (*Globicephala melas*).	Shelf and pelagic	[16] 200,000	NL	NC	11.88
Peale's dolphin (*Lagenorhynchus australis*).	Coastal and shelf	NA	NL	NC	[4] 0.8
Dusky dolphin (*Lagenorhynchus obscures*).	Shelf and slope	[17] 7,252	NL	NC	37
Southern right whale dolphin (*Lis sodelphis peronni*).	Pelagic	NA	NL	NC	[5] 0.01
Chilean dolphin (*Cephalorhynchus eutropia*).	Coastal and shelf	[18] < 10,000	NL	NC	11.11
Burmeister's porpoise (*Phocoena spinipinnis*).	Coastal	NA	NL	NC	[5] 0.01
		Pinnipeds			
South American fur seal (*Otaria flavescens*).	Coastal and shelf	[19] 30,000	NL	NC	NA
Juan Fernandez fur seal (*Arctocephalus philippii*).	Coastal and shelf	[20] 12,000	NL	NC	NA
South American sea lion (*Arctocephalus australis*).	Coastal and shelf	[21] 150,000	NL	NC	NA
Southern elephant seal (*Mirounga leonina*).	Coastal and pelagic	[22] 650,000	NL	NC	NA

N.A. Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.
[2] U.S. Marine Mammal Protection Act: D = Depleted, NC = Not Classified.
[3] Densities of other species (e.g., pinnipeds) presumably would be lower than the lowest density in Table 3 of the application.
[4] Densities assigned an arbitrary density similar to densities reported for species that are uncommon in the survey area.
[5] Densities assigned an arbitrarily low number for rare species with unconfirmed sightings in the survey area.
[6] Southeast Pacific (Felix *et al.,* 2005)
[7] Estimated from Antarctic and common minke whales in South Pacific (Reilly, 2011).
[8] Based on 2007 projection for southern hemisphere (IWC, 1996).
[9] Based on 2007 projection for southern hemisphere (Reilly, 2011).
[10] ETP (Wade and Gerrodette, 1993) excluded nursing area south of study area estimated at approximately 267 animals.
[11] Eastern temperate North Pacific (Whitehead, 2002).
[12] This abundance estimate is for *Kogia sima* and *Kogia breviceps* in ETP (Ferguson and Barlow, 2001).
[13] ETP (Wade and Gerrodette, 1993).
[14] This estimate includes all species of the genus *Mesoplodon* in the ETP (Ferguson and Barlow, 2001).
[15] ETP (Ford, 2002).
[16] Southern hemisphere population (Waring *et al.,* 1997).
[17] Patagonian coast population (Dans *et al.,* 1997).
[18] South-Eastern Pacific (Reeves *et al.,* 2008).
[19] Chile (Arias, Shreiber, and Rivas, 1998).
[20] Juan Fernandez Archipelago population (Aurioles and Trillmich, 2008).
[21] Peru and Chile (Campagna, 2008a).
[22] Southern hemisphere (Campagna, 2009).

Refer to Section III and IV of SIO's application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these species and their occurrence in the proposed

project area. The application also presents how SIO calculated the estimated densities for the marine mammals in the proposed survey area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the proposed IHA.

Potential Effects on Marine Mammals

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007).

Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term.

Tolerance to Sound

Studies on marine mammals' tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defines tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or man-made noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.,* the gradual waning of responses to a repeated or ongoing stimulus) (Richardson, *et al.,* 1995; Thorpe, 1963), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kms. Several studies have shown that marine mammals at distances more than a few kms from operating seismic vessels often show no apparent response (see Appendix A[5] in the EA). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales and toothed whales have been shown to react behaviorally to airgun pulses under some conditions, at other times mammals of both types have shown no over reactions. The relative responsiveness of baleen and toothed whales are quite variable.

Masking of Natural Sounds

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.,* 2009). Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995).

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are very few specific data on this. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between pulses (e.g., Simard *et al.,* 2005; Clark and Gagnon, 2006) which could mask calls. Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls can usually be heard between the seismic pulses (e.g., Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008). Dolphins and porpoises commonly are heard calling while airguns are operating (e.g., Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

In general, NMFS expects the masking effects of seismic pulses to be minor, given the normally intermittent nature of seismic pulses. Refer to Appendix A(4) of NSF's EA for a more detailed discussion of masking effects on marine mammals.

Behavioral Disturbance

Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and/or exposed to a particular level of industrial sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based primarily on behavioral observations of a few species. Scientists have conducted detailed studies on humpback, gray, bowhead (*Balaena mysticetus*), and sperm whales, and on ringed seals (*Phoca hispida*). Less detailed data are available for some other species of baleen whales, small toothed whales, and sea otters, but for many species there are no data on responses to marine seismic surveys.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.,* 1995). Whales are often reported to

show no overt reactions to pulses from large arrays of airguns at distances beyond a few kms, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in Appendix A(5) of NSF's EA, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson, *et al.,* 1995). They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re 1 μPa (rms) seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Malme *et al.,* 1986, 1988; Richardson *et al.,* 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4.5 to 14.5 km (2.4 to 7.8 nmi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies summarized in Appendix A(5) of NSF's EA have shown that some species of baleen whales, notably bowhead and humpback whales, at times, show strong avoidance at received levels lower than 160 to 170 dB re 1 μPa (rms).

McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off western Australia to a full-scale seismic survey with a 16 airgun array (2,678 in^3) and to a single airgun (20 in^3) with source level of 227 dB re 1 μPa (p-p). In the 1998 study, they documented that avoidance reactions began at five to eight km (2.7 to 4.3 nmi) from the array, and that those reactions kept most pods approximately three to four km from the operating seismic boat. In the 2000 study, they noted localized displacement during migration of four to five km by traveling pods and seven to 12 km (6.5 nmi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re 1 μPa (rms) for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re 1 μPa (rms). The initial avoidance response generally occurred at distances of five to eight km from the airgun array and two km from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re 1 μPa (rms).

Data collected by observers during several seismic surveys in the Northwest Atlantic showed that sighting rates of humpback whales were significantly greater during non-seismic periods compared with periods when a full array was operating (Moulton and Holst, 2010). In addition, humpback whales were more likely to swim away and less likely to swim towards a vessel during seismic vs. non-seismic periods (Moulton and Holst, 2010).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64–L (100 in^3) airgun (Malme *et al.,* 1985). Some humpbacks seemed ''startled'' at received levels of 150 to 169 dB re 1 μPa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 dB re 1 μPa (rms). However, Moulton and Holst (2010) reported that humpback whales monitored during seismic surveys in the Northwest Atlantic had lower sighting rates and were most often seen swimming away from the vessel during seismic periods compared with periods when airguns were silent.

Studies have suggested that south Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.,* 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.,* 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was no observable direct correlation between strandings and seismic surveys (IWC, 2007:236).

There are no data on reactions of right whales to seismic surveys, but results from the closely-related bowhead whale show that their responsiveness can be quite variable depending on their activity (migrating versus feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20 to 30 km (10.8 to 16.2 nmi) from a medium-sized airgun source at received sound levels of around 120 to 130 dB re 1 μPa (Miller *et al.,* 1999; Richardson *et al.,* 1999; see Appendix A[5] of NSF's EA). However, more recent research on bowhead whales (Miller *et al.,* 2005; Harris *et al.,* 2007) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. Nonetheless, subtle but statistically significant changes in surfacing-respiration-dive cycles were evident upon statistical analysis (Richardson *et al.,* 1986). In the summer, bowheads typically begin to show avoidance reactions at received levels of about 152 to 178 dB re 1 μPa (Richardson *et al.,* 1986, 1995; Ljungblad *et al.,* 1988; Miller *et al.,* 2005).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100 in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μPa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.,* 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.,* 1999; Gailey *et al.,* 2007; Johnson *et al.,* 2007; Yazvenko *et al.,* 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been seen in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (e.g., McDonald *et al.,* 1995; Dunn and Hernandez, 2009; Castellote *et al.,* 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of

airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). Castellote *et al.* (2010) reported that singing fin whales in the Mediterranean moved away from an operating airgun array.

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the Northwest Atlantic found that overall, this group had lower sighting rates during seismic vs. non-seismic periods (Moulton and Holst, 2010). Baleen whales as a group were also seen significantly farther from the vessel during seismic compared with non-seismic periods, and they were more often seen to be swimming away from the operating seismic vessel (Moulton and Holst, 2010). Blue and minke whales were initially sighted significantly farther from the vessel during seismic operations compared to non-seismic periods; the same trend was observed for fin whales (Moulton and Holst, 2010). Minke whales were most often observed to be swimming away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in Malme *et al.,* 1984; Richardson *et al.,* 1995; Allen and Angliss, 2010). The western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.,* 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987; Allen and Angliss, 2010).

Toothed Whales—Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above and (in more detail) in Appendix A of NSF's EA have been reported for toothed whales. However, there are recent systematic studies on sperm whales (e.g., Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009; Moulton and Holst, 2010).

Seismic operators and marine mammal observers on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (e.g., Goold, 1996a, b, c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (e.g., Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (e.g., Stone and Tasker, 2006; Weir, 2008; Barry *et al.,* 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance. The beluga whale (*Delphinapterus leucas*) is a species that (at least at times) shows long-distance avoidance of seismic vessels. Aerial surveys conducted in the southeastern Beaufort Sea during summer found that sighting rates of beluga whales were significantly lower at distances 10 to 20 km compared with 20 to 30 km from an operating airgun array, and observers on seismic boats in that area rarely see belugas (Miller *et al.,* 2005; Harris *et al.,* 2007).

Captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Results for porpoises depend on species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (e.g., Stone, 2003; Moulton *et al.,* 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call (see Appendix A of NSF's EA for review). However, controlled exposure experiments in the GOM indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.,* 2008; Miller *et al.,* 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales (*Hyperoodon ampullatus*) remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.,* 2005). Most beaked whales tend to avoid approaching vessels of other types (e.g., Wursig *et al.,* 1998). They may also dive for an extended period when approached by a vessel (e.g., Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.,* 2006; Tyack *et al.,* 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly. In fact, Moulton and Holst (2010) reported 15 sightings of beaked whales during seismic studies in the Northwest Atlantic; seven of those sightings were made at times when at least one airgun was operating.

There was little evidence to indicate that beaked whale behavior was affected by airgun operations; sighting rates and distances were similar during seismic and non-seismic periods (Moulton and Holst, 2010).

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (e.g., Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.,* 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the Stranding and Mortality section in this document). These strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes, belugas, and harbor porpoises (Appendix A of NSF's EA).

Pinnipeds—Pinnipeds are not likely to show a strong avoidance reaction to the airgun array. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior, see Appendix A(5) of NSF's EA. In the Beaufort Sea, some ringed seals avoided an area of 100 m to (at most) a few hundred meters around seismic vessels, but many seals remained within 100 to 200 m (328 to 656 ft) of the trackline as the operating airgun array passed by (e.g., Harris *et al.,* 2001; Moulton and Lawson, 2002; Miller *et al.,* 2005). Ringed seal sightings averaged somewhat farther away from the seismic vessel when the airguns were operating than when they were not, but the difference was small (Moulton and Lawson, 2002). Similarly, in Puget Sound, sighting distances for harbor seals and California sea lions tended to be larger when airguns were operating (Calambokidis and Osmek, 1998). Previous telemetry work suggests that avoidance and other behavioral reactions may be stronger than evident to date from visual studies (Thompson *et al.,* 1998).

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.,* 2007).

Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, *i.e.,* permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007). Table 1 (above) presents the distances from the *Melville's* airguns at which the received energy level (per pulse, flat-weighted) would be expected to be greater than or equal to 190 dB re 1 µPa (rms).

Researchers have derived TTS information for odontocetes from studies on the bottlenose dolphin and beluga. For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.,* 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (*cf.* Southall *et al.,* 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales (Southall *et al.,* 2007). For this proposed study, SIO expects no cases of TTS given the low abundance of baleen whales in the proposed survey area at the time of the proposed survey, and the strong likelihood that baleen whales would avoid the approaching airguns (or vessel) before being exposed to levels high enough for TTS to occur.

In pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.,* 1999, 2005; Ketten *et al.,* 2001). The TTS threshold for pulsed sounds has been indirectly estimated as being an SEL of approximately 171 dB re 1 $\mu Pa^2 \cdot s$ (Southall *et al.,* 2007) which would be equivalent to a single pulse with a received level of approximately 181 to 186 dB re 1 µPa (rms), or a series of pulses for which the highest rms values are a few dB lower. Corresponding values for California sea lions and northern elephant seals are likely to be higher (Kastak *et al.,* 2005).

To avoid the potential for injury, NMFS (1995, 2000) concluded that cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 µPa (rms) and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 190 dB re 1 µPa (rms). NMFS believes that to avoid the potential for permanent physiological damage (Level A harassment), cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 µPa (rms) and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 190 dB re 1 µPa (rms).

The 180 dB and 190 dB levels are the shutdown criterion applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish the EZs. NMFS also assumes that marine mammals exposed to levels exceeding 160 dB re 1 μPa (rms) may experience Level B harassment.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (e.g., Richardson *et al.,* 1995, p. 372*ff;* Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several dBs above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time—see Appendix A(6) of SIO's EA. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than six dB (Southall *et al.,* 2007).

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Stranding and Mortality—Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). However, explosives are no longer used for marine waters for commercial seismic surveys or (with rare exceptions) for seismic research; they have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar and, in one case, an L–DEO seismic survey (Malakoff, 2002; Cox *et al.,* 2006), has raised the possibility that beaked whales exposed to strong ''pulsed'' sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (e.g., Hildebrand, 2005; Southall *et al.,* 2007). Appendix A(6) of SIO's EA provides additional details.

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

(1) Swimming in avoidance of a sound into shallow water;

(2) A change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

(3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

(4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues. Some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are indications that gas-bubble disease (analogous to ''the bends''), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. However, the evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.,* 2006; Southall *et al.,* 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse sounds at frequencies of two to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (e.g., Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.,* 2003; Fernández *et al.,* 2004, 2005; Hildebrand 2005; Cox *et al.,* 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity ''pulsed'' sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.,* 2004) were not well founded (IAGC, 2004; IWC, 2007). In September, 2002, there was a stranding of two Cuvier's beaked whales (*Ziphius cavirostris*) in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20 airgun (8,490 in^3) array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of:

(1) The high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels, and

(2) Differences between the sound sources operated by SIO and those involved in the naval exercises associated with strandings.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. However, resonance

effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales and some odontocetes, are especially unlikely to incur non-auditory physical effects.

Potential Effects of Other Acoustic Devices

MBES

SIO will operate the Kongsberg EM 122 MBES from the source vessel during the planned study. Sounds from the MBES are very short pulses, occurring for two to 15 ms once every five to 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBES is at frequencies near 12 kHz, and the maximum source level is 242 dB re 1 μPam (rms). The beam is narrow (1 to 2°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of eight (in water greater than 1,000 m deep) or four (in water less than 1,000 m deep) successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the segments. Also, marine mammals that encounter the Kongsberg EM 122 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than two to 15 ms pulse (or two pings if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBES emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans: (1) generally have longer pulse duration than the Kongsberg EM 122; and (2) are often directed close to horizontally versus more downward for the MBES. The area of possible influence of the MBES is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During SIO's operations, the individual pulses will be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of an MBES on marine mammals are outlined below.

Masking—Marine mammal communications will not be masked appreciably by the MBES signals given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the MBES signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral Responses—Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.,* 1985), increased vocalizations and no dispersal by pilot whales (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21 to 25 kHz ''whale-finding'' sonar with a source level of 215 dB re 1 μPa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (Frankel, 2005). When a 38 kHz echosounder and a 150 kHz acoustic Doppler current profiler were transmitting during studies in the Eastern Tropical Pacific, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1 s tonal signals at frequencies similar to those that will be emitted by the MBES used by SIO, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.,* 2000; Finneran *et al.,* 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from an MBES.

Very few data are available on the reactions of pinnipeds to echosounder sounds at frequencies similar to those used during seismic operations. Hastie and Janik (2007) conducted a series of behavioral response tests on two captive gray seals to determine their reactions to underwater operation of a 375 kHz multibeam imaging echosounder that included significant signal components down to 6 kHz. Results indicated that the two seals reacted to the signal by significantly increasing their dive durations. Because of the likely brevity of exposure to the MBES sounds, pinniped reactions are expected to be limited to startle or otherwise brief responses of no lasting consequences to the animals.

Hearing Impairment and Other Physical Effects—Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (see above). However, the MBES proposed for use by SIO is quite different than sonar used for Navy operations. Pulse duration of the MBES is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the MBES for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; Navy sonar often uses near-horizontally-directed sound. Those factors would all reduce the sound energy received from the MBES rather drastically relative to that from naval sonar.

NMFS believes that the brief exposure of marine mammals to one pulse, or small numbers of signals, from the MBES is not likely to result in the harassment of marine mammals.

SBP

SIO will also operate a SBP from the source vessel during the proposed survey. Sounds from the SBP are very short pulses, occurring for up to 64 ms once every s. Most of the energy in the sound pulses emitted by the SBP is at 3.5 kHz, and the beam is directed downward. The SBP on the *Melville* has

a maximum source level of 222 dB re 1 µPam (rms). Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—even for an SBP more powerful than that on the *Melville*—if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS.

Masking—Marine mammal communications will not be masked appreciably by the SBP signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of most baleen whales, the SBP signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses—Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the SBP are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the SBP are considerably weaker than those from the MBES. Therefore, behavioral responses are not expected unless marine mammals are very close to the source.

Hearing Impairment and Other Physical Effects—It is unlikely that the SBP produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The SBP is usually operated simultaneously with other higher-power acoustic sources, including airguns. Many marine mammals will move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the SBP.

Acoustic Release Signals

The acoustic release transponder used to communicate with the OBSs uses frequencies nine to 13 kHz. These signals will be used very intermittently. It is unlikely that the acoustic release signals would have a significant effect on marine mammals through masking, disturbance, or hearing impairment. Any effects likely would be negligible given the brief exposure at presumable low levels.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the Proposed Mitigation and Proposed Monitoring and Reporting sections) which, as noted are designed to effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

The proposed seismic survey will not result in any permanent impact on habitats used by the marine mammals in the proposed survey area, including the food sources they use (*i.e.* fish and invertebrates), and there will be no physical damage to any habitat. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish populations is limited (see Appendix D of NSF's EA). There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (*e.g.,* startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (*i.e.,* mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts on fish problematic because ultimately, the most important aspect of potential impacts relates to how exposure to seismic survey sound affects marine fish populations and their viability, including their availability to fisheries.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a,b) provided recent critical reviews of the known effects of sound on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question (see Appendix D of NSF's EA). For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected and whether critical behaviors involving sound (e.g., predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. As far as SIO and NMFS know, there are only two papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable

anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns [less than 400 Hz in the study by McCauley *et al.* (2003) and less than approximately 200 Hz in Popper *et al.* (2005)] likely did not propagate to the fish because the water in the study areas was very shallow (approximately nine m in the former case and less than two m in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate (the ''cutoff frequency'') at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) the received peak pressure and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.,* 1987; La Bella *et al.,* 1996; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.,* 2003; Popper *et al.,* 2005; Boeger *et al.,* 2006).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.,* 1996; Dalen *et al.,* 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a 'worst-case scenario' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.,* 1994; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus (see Appendix D of NSF's EA).

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (e.g., Chapman and Hawkins, 1969; Pearson *et al.,* 1992; Santulli *et al.,* 1999; Wardle *et al.,* 2001; Hassel *et al.,* 2003). Typically, in these studies fish exhibited a sharp ''startle'' response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

There is general concern about potential adverse effects of seismic operations on fisheries, namely a potential reduction in the ''catchability'' of fish involved in fisheries. Although reduced catch rates have founded by other sources of disturbance (Dalen and Raknes, 1985; Dalen and Knutsen, 1986; Lokkeborg, 1991; Skalski *et al.,* 1992; Engas *et al.,* 1996). In other airgun experiments, there was no change in catch per unit effort of fish when airgun pulses were emitted, particularly in the immediate vicinity of the seismic survey (Pickett *et al.,* 1994; La Bella *et al.,* 1996). For some species, reductions in catch may have resulted from a change in behavior of the fish, e.g., a change in vertical or horizontal distribution, as reported in Slotte *et al.* (2004).

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.,* 2001; see also Appendix E of NSF's EA).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod crustaceans and cephalopods, the two taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information. A more detailed review of the literature on the effects of seismic survey sound on invertebrates is provided in Appendix E of NSF's EA.

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) The received peak pressure; and (2) the time required for the pressure to rise and

decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source, at most; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.,* 1994; Christian *et al.,* 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.,* 2003, 2004; DFO, 2004) and adult cephalopods (McCauley *et al.,* 2000a,b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.,* 2004), but the article provides little evidence to support this claim. Recent work by Andre *et al.* (2011) purports to present the first morphological and ultrastructural evidence of massive acoustic trauma (*i.e.,* permanent and substantial alterations of statocyst sensory hair cells) in four cephalopod species subjected to low-frequency sound. The cephalopods, primarily cuttlefish, were exposed to continuous 50 to 400 Hz sinusoidal wave sweeps (100% duty cycle and 1 s sweep period) for two hours while captive in relatively small tanks (one 2,000 liter [L, $2m^3$] and one 200 L [0.2 m^3] tank), and reported morphological and ultrastructural evidence of massive acoustic trauma (*i.e.,* permanent and substantial alterations of statocyst sensory hair cells). The received SPL was reported as 157±5 dB re 1 μPa, with peak levels at 175 dB re 1 μPa. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (*i.e.,* changes in haemolymph levels of enzymes, proteins, etc.) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.,* 2007). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (e.g., squid in McCauley *et al.,* 2000a,b). In other cases, no behavioral impacts were noted (e.g., crustaceans in Christian *et al.,* 2003, 2004; DFO 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.,* 2005). Similarly, Parry and Gason (2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method).

OBS Deployment—A total of approximately 10 OBSs will be deployed during the proposed survey. L–DEO OBS08 model broadband OBSs will be used during the cruise. This type of OBS has a height of approximately 122 cm and a width and depth of 76.2 x 106.7 cm. The anchor is made of two steel cylinders approximately 15 cm in diameter and 46 cm in length. Each cylinder weighs approximately 75 lbs in air. OBSs will remain on the seafloor to continue to collect data for approximately one year. Once an OBS is ready to be retrieved, an acoustic release transponder interrogates the instrument at a frequency of 9 to 11 kHz, and a response is received at a frequency of 9 to 13 kHz. The burn-wire release assembly is then activated and the instrument is released from the anchor to float to the surface. OBS anchors will be left behind upon equipment recovery. Although OBS placement will disrupt a very small area of seafloor habitat and could disturb benthic invertebrates, the impacts are expected to be localized and transitory.

Proposed Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

SIO has based the mitigation measures described herein, to be implemented for the proposed seismic survey, on the following:

(1) Protocols used during previous SIO seismic research cruises as approved by NMFS;

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

Planning Phase—The PIs worked with SIO and NSF to identify potential time periods to carry out the survey taking into consideration key factors such as environmental conditions (*i.e.,* the seasonal presence of marine mammals), weather conditions, equipment, and optimal timing for other proposed seismic surveys using the Melville. Most marine mammal species are expected to occur in the area year-round, so altering the timing of the proposed survey likely would result in no net benefits for those species. Baleen whales are most common south of the survey area between February and June, whereas odontocetes were most commonly observed between October and November. After considering what energy source level was necessary to achieve the research goals, the PIs determined the use of the two GI airgun array with a maximum total volume of 210 in^3 would be required. Given the research goals, location of the survey and associated deep water, this energy source level was viewed appropriate. The location of the survey was informed and adjusted based on the latest scientific information on the epicenter

of the February 27, 2010 earthquake; survey location is critical for collecting the data for the overall research activity and meeting research objectives.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, SIO and/or its designees has proposed to implement the following mitigation measures for marine mammals:

(1) Proposed exclusion zones;
(2) Speed or course alteration;
(3) Shut-down procedures; and
(4) Ramp-up procedures.

Proposed Exclusion Zones—Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 45 in^3 GI airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the source where sound levels are predicted to be 190, 180, and 160 dB re 1 μPa (rms) in deep water were determined (see Table 1 above).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern GOM in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009). Results of the 36 airgun array are not relevant for the two GI airguns to be used in the proposed survey. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). Measurements were not made for the two GI airgun array in deep water, however, SIO proposes to use the EZ predicted by L–DEO's model for the proposed GI airgun operations in deep water, although they are likely conservative give the empirical results for the other arrays.

The 180 and 190 dB radii are shut-down criteria applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish the EZs. If the PSO detects marine mammal(s) within or about to enter the appropriate EZ, the airguns will be shut-down immediately.

Speed or Course Alteration—If a marine mammal is detected outside the EZ an, based on its position and the relative motion, is likely to enter the EZ, the vessel's speed and/or direct course could be changed. This would be done if operationally practicable while minimizing the effect on the planned science objectives. The activities and movements of the marine mammal (relative to the seismic vessel) will then be closely monitored to determine whether the animal is approaching the applicable EZ. If the animal appears likely to enter the EZ, further mitigative actions will be taken, *i.e.,* either further course alterations or a shut-down of the seismic source. Typically, during seismic operations, the source vessel is unable to change speed or course and one or more alternative mitigation measures will need to be implemented.

Shut-down Procedures—SIO will shut down the operating airgun(s) if a marine mammal is seen outside the EZ for the airgun(s), and if the vessel's speed and/or course cannot be changed to avoid having the animal enter the EZ, the seismic source will be shut-down before the animal is within the EZ. If a marine mammal is already within the EZ when first detected, the seismic source will be shut-down immediately.

Following a shut-down, SIO will not resume airgun activity until the marine mammal has cleared the EZ. SIO will consider the animal to have cleared the EZ if:

- A PSO has visually observed the animal leave the EZ, or
- A PSO has not sighted the animal within the EZ for 15 min for species with shorter dive durations (*i.e.,* small odontocetes or pinnipeds), or 30 min for species with longer dive durations (*i.e.,* mysticetes and large odontocetes, including sperm, killer, and beaked whales).

Ramp-up Procedures—SIO will follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a shut-down has exceeded that period. SIO proposes that, for the present cruise, this period would be approximately 15 min. SIO has used similar periods (approximately 15 min) during previous SIO surveys.

Ramp-up will begin with a single GI airgun (45 in^3). The second GI airgun (45 in^3) will be added after five min. During ramp-up, the PSOs will monitor the EZ, and if marine mammals are sighted, SIO will implement a shut-down as though both GI airguns were operational.

If the complete EZ has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, SIO will not commence the ramp-up. If one airgun has operated, ramp-up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. A ramp-up from a shut-down may occur at night, but only where the EZ is small enough to be visible. SIO will not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable EZs during the day or close to the vessel at night.

NMFS has carefully evaluated the applicant's proposed mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on NMFS's evaluation of the applicant's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Monitoring

SIO proposes to sponsor marine mammal monitoring during the proposed project, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. SIO's proposed Monitoring Plan is described below this

section. SIO understands that this monitoring plan will be subject to review by NMFS, and that refinements may be required. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. SIO is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

PSOs will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups at night. PSOs will also watch for marine mammals near the seismic vessel for at least 30 min prior to the ramp-up of airgun operations after an extended shut-down (*i.e.,* greater than approximately 15 min for this proposed cruise). When feasible, PSOs will conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSO observations, the airguns will be shut-down when marine mammals are observed within or about to enter a designated EZ. The EZ is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

During seismic operations in the south-eastern Pacific Ocean, three PSOs will be based aboard the *Melville.* SIO will appoint the PSOs with NMFS's concurrence. At least one PSO will monitor the EZs during seismic operations. Observations will take place during ongoing daytime operations and nighttime ramp-ups of the airguns. PSO(s) will be on duty in shifts of duration no longer than 4 hr. The vessel crew will also be instructed to assist in detecting marine mammals.

The *Melville* is a suitable platform for marine mammal observations of protected species. The primary observer platform is located one deck below and forward of the bridge (02 level, 12.46 m [40.9 ft] above the waterline), affording relatively unobstructed 180° forward view. A pair of Big-eye binoculars is mounted in this location. The open deck continues along both the port and starboard sides, and opens up to an aft deck stretching across the full width of the vessel. PSOs have views in a full 360° by walking along this deck. In extremely inclement weather, the PSOs move on to the bridge (03 level, 15.5 m [50.6 ft] above the water line). There they will have a 360° view through the windows.

During daytime, the PSVOs will scan the area around the vessel systematically with reticle binoculars (e.g., 7×50 Fujinon), Big-eye binoculars (25×150), optical range finders and with the naked eye. During darkness, night vision devices (NVDs) will be available, when required. The PSOs will be in wireless communication with the vessel's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shut-down. When marine mammals are detected within or about to enter the designated EZ, the airguns will immediately be shut-down if necessary. The PSO(s) will continue to maintain watch to determine when the animal(s) are outside the EZ by visual confirmation. Airgun operations will not resume until the animal is confirmed to have left the EZ, or if not observed after 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (mysticetes and large odontocetes, including sperm, killer, and beaked whales).

PSO Data and Documentation

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a shut-down of the airguns when a marine mammal is within or near the EZ. Observations will also be made during daytime periods when the *Melville* is underway without seismic operations (*i.e.,* transits to, from, and through the study area) to collect baseline biological data.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, Beaufort sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations as well as information regarding shut-downs of the seismic source, will be recorded in a standardized format. The data accuracy will be verified by the PSOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently.

Vessel-based observations by the PSO will provide the following information:

1. The basis for real-time mitigation (airgun shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

SIO will submit a report to NMFS and NSF within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the number and nature of exposures that could result in potential ''takes'' of marine mammals by harassment or in other ways. After the report is considered final, it will be publicly available on the NMFS and NSF Web sites.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), SIO will immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Southwest Regional Stranding

Coordinators (*Joe.Cordaro@noaa.gov* and *Sarah.Wilkin@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with SIO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SIO may not resume their activities until notified by NMFS via letter or email, or telephone.

In the event that SIO discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), SIO will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Southwest Regional Office (562–980–4017) and/or by email to the Southwest Regional Stranding Coordinators (*Joe.Cordaro@noaa.gov* and *Sarah.Wilkin@noaa.gov*). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SIO to determine whether modifications in the activities are appropriate.

In the event that SIO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SIO will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Southwest Regional Office (562–980–4017), and/or by email to the Southwest Regional Stranding Coordinators (*Joe.Cordaro@noaa.gov* and *Sarah.Wilkin@noaa.gov*), within 24 hours of discovery. SIO will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Only take by Level B harassment is anticipated and proposed to be authorized as a result of the proposed marine seismic survey in the south-eastern Pacific Ocean. Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause marine mammals in the survey area to be exposed to sounds at or greater than 160 dB or cause temporary, short-term changes in behavior. There is no evidence that the planned activities could result in injury, serious injury, or mortality within the specified geographic area for which SIO seeks the IHA. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe SIO's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be affected during the proposed seismic program. The estimates are based on a consideration of the number of marine mammals that could be disturbed appreciably by operations with the two GI airgun array to be used during approximately 1,810 km (977.3 nmi) (includes primary and secondary lines and an additional 25 percent contingency) of survey lines in the south-eastern Pacific Ocean.

SIO assumes that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES and SBP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the MBES and SBP given their characteristics (e.g., narrow, downward-directed beam) and other considerations described previously. Such reactions are not considered to constitute ''taking'' (NMFS, 2001). Therefore, SIO provides no additional allowance for animals that could be affected by sound sources other than airguns.

Extensive systematic ship-based surveys have been conducted by NMFS SWFSC for marine mammals in the ETP. SIO used densities from five sources:

(1) SWFSC has recently developed habitat modeling as a method to estimate cetacean densities on a finer spatial scale than traditional line-transect analyses by using a continuous function of habitat variables, e.g., sea surface temperature, depth, distance from shore, and prey density (Barlow *et al.,* 2009). For the ETP, the models are based on data from 12 SWFSC ship-based cetacean and ecosystem assessment surveys conducted during July to December from 1986 to 2006. The models have been incorporated into a web-based Geographic Information System (GIS) developed by Duke University's Department of Defense Strategic Environmental Research and Development Program (SERDP) team in close collaboration with the SWFSC SERDP team Read *et al.,* 2009). For 11 cetacean species in the model, SIO used the GIS to obtain mean densities near the proposed survey area, *i.e.,* in a rectangle bounded by 4° to 12° South and 75° to 85° West, which was the south-eastern extent of the model;

(2) For species sighted in SWFSC surveys whose sample sizes were too small to model density, SIO used densities from the surveys conducted during summer and fall 1986 to 1996, as summarized by Ferguson and Barlow (2001). Densities were calculated from Ferguson and Barlow (2003) for 5° x 5° blocks that include the proposed survey areas and corridors: Blocks 139, 159, 160, 200, 201, 202, 212, 213, and 219. Those blocks included 27,275 km (14727.3 nmi) of survey effort in Beaufort sea states 0 to 5, and 2,564 km (1,384.5 nmi) of survey effort in Beaufort sea states 0 to 2. Densities were obtained for an additional five species that were sighted in one or more of those blocks;

(3) For dusky dolphins, SIO used the mean densities reported for Area A from aerial surveys in North and Central Patagonia (Shiavini *et al.,* 1999), corrected for $f(0)$, but not g(0). Since the closest density estimates were taken south of the proposed survey area, where dusky dolphin abundance is higher, SIO used 10 percent of the reported density to account for the decreased abundance of dusky dolphins in the proposed survey area;

(4) For Chilean dolphins, SIO used the estimated density of Chilean dolphins in Patagonia from Heinrich (2006). The extralimital, offshore distribution of Chilean dolphins in the proposed survey area was corrected for by taking 1 percent of the densities reported by Heinrich (2006);

(5) For blue whales, SIO used the densities reported by Galletti-Vernazzani and Cabrera (2009) from aerial surveys in Patagonia in March 2007 and April in 2009 that took place south of the survey site (39° South to 44° South). The density estimates were corrected for $f(0)$ and g(0). Given the higher abundance of blue whales south of the survey site, SIO corrected the reported density for the proposed survey area by reducing the density by 50 percent.

For two species for which there are only unconfirmed sightings in the region, the sei and fin whale, arbitrary low densities (equal to the density of the species with the lowest calculated density) were assigned. The same arbitrary low density was assigned to southern right whale dolphins and Burmeister's porpoise, where no confirmed sightings were made within the survey region. In addition, there were no density estimates available for humpback whales, minke whales, and Peale's dolphins, but confirmed sightings have been made near the survey area. SIO arbitrarily assigned a density estimate of 0.8 animals/1,000 km^2, which was similar to the densities reported for uncommon species in the area.

Oceanographic conditions, including occasional El Nino and La Nina events, influence the distribution and numbers of marine mammals present in the ETP and SEP, resulting in considerable year-to-year variation in the distribution and abundance of many marine mammal species (e.g., Escorza-Trevino, 2009). Thus, for some species the densities derived from recent surveys may not be representative of densities that will be encountered during the proposed seismic survey.

SIO used estimated densities (see Table 3 of the application) for each cetacean species likely to occur in the proposed study area, *i.e.,* species for which SIO obtained or assigned densities. The densities had been corrected, by the authors, for both trackline detectability and availability bias. Trackline detection probability bias is associated with diminishing sightability with increasing lateral distance from the trackline, and is measured by $f(0)$. Availability bias refers to the fact that there is less-than-100% probability of sighting an animal that is present along the survey trackline $f(0)$, and it is measured by g(0). Corrections for $f(0)$ and g(0) were made where mentioned above. The densities are given in Table 3 of SIO's IHA application.

SIO's estimates of exposures to various sound levels assume that the proposed surveys will be fully completed; in fact, the ensonified areas calculated using the planned number of line-km have been increased by 25 percent to accommodate turns, lines that may need to be repeated, equipment testing, etc. As is typical during offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated EZs will result in the shut-down of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to sound levels of 160 dB re 1 µPa (rms) are precautionary and probably overestimate the actual numbers of marine mammals that might be involved. These estimates also assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

SIO estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 µPa (rms) on one or more occasions by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion, along with the expected density of marine mammals in the area. The proposed seismic lines are not in close proximity, which minimizes the number of times an individual marine mammal may be exposed during the proposed survey; the area including the overlap is only 1.2 times the area excluding overlap.

The numbers of different individuals potentially exposed to greater than or equal to 160 dB (rms) were calculated by multiplying the expected species density times the anticipated area to be ensonified during airgun operations. The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo GIS, using the GIS to identify the relevant areas by ''drawing'' the applicable 160 dB buffer (see Table 1 of the IHA application) around each seismic line, and then calculating the total area within the buffers. Areas where overlap occurred (because of crossing lines) were included only once when estimating the number of individuals exposed.

Applying the approach described above, approximately 1,448.4 km^2 (422.3 nmi^2) would be within the 160 dB isopleth on one or more occasions during the proposed survey (including primary and secondary lines). The total ensonified area used to calculate estimated numbers exposed was approximately 1,810.5 km^2 [527.9 nmi^2] and includes the additional 25 percent increase in the calculated area for contingency. Because this approach does not allow for turnover in the marine mammal populations in the study area during the course of the survey, the actual number of individuals exposed could be underestimated, although the conservative (*i.e.,* probably overestimated) line-kilometer distances used to calculate the area may offset this. Also, the approach assumes that no cetaceans will move away from or toward the trackline as the *Melville* approaches in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to greater than or equal to 160 dB re 1 µPa (rms).

Table 3 (Table 3 of the IHA application) shows the estimates of the number of different individual marine mammals that potentially could be exposed to greater than or equal to 160 dB re 1 µPa (rms) during the seismic survey if no animals moved away from the survey vessel. The requested take authorization is given in Table 3 (below; the far right column of Table 3 of the IHA application). For ESA listed species, the requested take authorization has been increased to the mean group size in southern Chile where available (Viddi *et al.,* 2010) or the ETP (Wade and Gerodette, 1993), where the calculated number of individuals exposed was between 0.05 and the mean group size (*i.e.,* for sei, fin, humpback, and sperm whales). For species not listed under the ESA that could occur in the study area, the requested take authorization has been increased to the

mean group size in the ETP (Wade and Gerodette, 1993) or southern Chile (Viddi *et al.,* 2010); Zamorano-Abramson *et al.,* 2010) in cases where the calculated number of individuals exposed was between one and the mean group size. For delphinids where typically large group sizes are encountered, the requested take authorization was increased to the mean group size in southern Chile (Aguauo *et al.,* 1998; Viddi *et al.,* 2010; Zamarano-Abramson *et al.,* 2010) if the calculated number was greater than one, but less than the mean group size.

The best estimate of the number of individual cetaceans that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the proposed survey is 561 (see Table 3 of the IHA application). That total includes: 1 humpback, 1 minke, 2 Bryde's, 4 blue, and 7 sperm whales, 1 Cuvier's, 1 Blainville's, and 1 unidentified *Mesoplodon* beaked whale, 15 rough-toothed, 72 bottlenose, 134 spinner, 123 striped, 254 short-beaked common, 4 Peale's, 67 dusky, and 4 Chilean dolphins, and 1 false killer, 2 killer, and 22 long-finned pilot whales, which would represent less than 1% of the regional populations for any of the respective species. Most (96.4%) of the cetaceans potentially exposed are delphinids; rough-toothed, short-beaked common, striped, spinner, bottlenose, Risso's, and dusky dolphins and long-finned pilot whales are estimated to be the most common species in the proposed study area. Due to the extralimital distribution of pinnipeds in the study area, no pinnipeds are expected to be encountered during the proposed survey.

TABLE 3—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO DIFFERENT SOUND LEVELS ≥160 dB DURING SIO'S PROPOSED SEISMIC SURVEY IN THE SOUTH-EASTERN PACIFIC OCEAN DURING MAY, 2012

Species	Estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa[1]	Requested take authorization	Approximate percent of regional population (for requested take)[2]
Mysticetes:			
Humpback whale	1	*3	0.1
Minke whale	1	*2	<0.01
Bryde's whale	2	2	<0.01
Sei whale	0	0	NA
Fin whale	0	0	NA
Blue whale	4	4	0.3
Odontocetes:			
Sperm whale	7	*8	0.03
Pygmy sperm whale	0	0	NA
Dwarf sperm whale	0	0	NA
Cuvier's beaked whale	1	1	<0.01
Blainville's beaked whale	1	1	<0.01
Gray's beaked whale	0	0	NA
Hector's beaked whale	0	0	NA
Strap-toothed beaked whale	0	0	NA
Unidentified *Mesoplodon* spp.	1	1	<0.01
Rough-toothed dolphin	8	*15	0.01
Bottlenose dolphin	31	*72	0.02
Spinner dolphin	65	*134	<0.01
Striped dolphin	123	123	0.01
Short-beaked common dolphin	201	*254	0.01
Risso's dolphin	18	18	0.02
False killer whale	1	1	<0.01
Killer whale	2	2	0.02
Long-finned pilot whale	22	22	0.01
Peale's dolphin	1	*4	NA
Dusky dolphin	67	67	0.92
Southern right whale dolphin	0	0	NA
Chilean dolphin	4	4	0.4
Burmeister's porpoise	0	0	NA
Pinnipeds:			
South American fur seal	0	0	NA
Juan Fernandez fur seal	0	0	NA
South American sea lion	0	0	NA
Southern elephant seal	0	0	NA

[1] Estimates are based on densities from Table 2 (Table 3 of the IHA application) and ensonified areas (including 25% contingency) for 160 dB of 1,810.5 km^2.

[2] Regional population size estimates are from Table 2 (see Table 2 of the IHA application); NA means not available.

* Requested authorized take was increased to mean group size for delphinids if calculated numbers were between 1 and mean group size, and increased to the mean group size if calculated vales were greater than 0.05 for endangered species.

Encouraging and Coordinating Research

SIO and NSF will coordinate the planned marine mammal monitoring program associated with the seismic survey in the south-eastern Pacific Ocean with any parties that may have or express an interest in the proposed seismic survey area. SIO and NSF have coordinated, and will continue to coordinate, with other applicable Federal agencies as required, and will comply with their requirements. Pursuant to IHA requirements, SIO will submit a monitoring report to NMFS 90 days after the proposed survey. PSO data collected during the survey will be submitted to OBIS Seamap and will be made available on the NSF Web site for interested parties and researchers.

Negligible Impact and Small Numbers Analysis and Preliminary Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited);

(3) The context in which the takes occur (*i.e.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, and impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures (*i.e.,* the manner and degree in which the measure is likely to reduce adverse impacts to marine mammals, the likely effectiveness of the measures, and the practicability of implementation).

For reasons stated previously in this document, the specified activities associated with the marine seismic survey are not likely to cause PTS, or other non-auditory injury, serious injury, or death because:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the incorporation of the required monitoring and mitigation measures (described above);

(3) The fact that pinnipeds would have to be closer than 10 m (32.8 ft) in deep water when the two GI airgun array is in use at 2 m (6.6 ft) tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS;

(4) The fact that cetaceans would have to be closer than 40 m (131.2 ft) in deep water when the two GI airgun array is in 2 m tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS; and

(5) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of SIO's planned marine seismic survey, and none are authorized by NMFS. Only short-term, behavioral disturbance is anticipated to occur due to the brief and sporadic duration of the survey activities. Table 3 in this document outlines the number of Level B harassment takes that are anticipated as a result of the activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see Potential Effects on Marine Mammals section above) in this notice, the activity is not expected to impact rates of recruitment or survival for any affected species or stock.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While seismic operations are anticipated to occur on consecutive days, the entire duration of the survey is not expected to last more than 15 days and the *Melville* will be continuously moving along planned tracklines. Therefore, the seismic survey will be increasing sound levels in the marine environment surrounding the vessel for several weeks in the study area. Of the 32 marine mammal species under NMFS jurisdiction that are known to or likely to occur in the study area, five are listed as endangered under the ESA: humpback, sei, fin, blue, and sperm whale. These species are also considered depleted under the MMPA. There is generally insufficient data to determine population trends for the other depleted species in the study area. To protect these animals (and other marine mammals in the study area), SIO must cease or reduce airgun operations if animals enter designated zones. No injury, serious injury, or mortality is expected to occur and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

As mentioned previously, NMFS estimates that 20 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the proposed IHA. For each species, these numbers are small (each less than one percent) relative to the regional population size. The population estimates for the marine mammal species that may be taken by harassment were provided in Table 2 of this document.

NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting a marine seismic survey in the south-eastern Pacific Ocean, May, 2012, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. See Table 3 (above) for the requested authorized take numbers of cetaceans and pinnipeds.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led NMFS to preliminary determine that this action will have a negligible impact on the species in the specified geographic region.

Based on the analysis contained herein of the likely effects of the

specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that SIO's planned research activities, will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the marine seismic survey will have a negligible impact on the affected species or stocks of marine mammals; and that impacts to affected species or stocks of marine mammals have been mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (offshore waters of the south-eastern Pacific Ocean off of Chile) that implicate MMPA section 101(a)(5)(D).

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, several are listed as endangered under the ESA, including the humpback, sei, fin, blue, and sperm whale. Under section 7 of the ESA, NSF has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed seismic survey. NMFS's Office of Protected Resources, Permits and Conservation Division, has initiated formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS will conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, NSF and SIO, in addition to the mitigation and monitoring requirements included in the IHA, will be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS's Biological Opinion issued to both NSF and NMFS's Office of Protected Resources.

National Environmental Policy Act (NEPA)

With its complete application, NSF and SIO provided NMFS a draft ''National Environmental Policy Act Analysis Pursuant to Executive Order 12114 of a Marine Geophysical Survey by the R/V *Melville* in the South-Eastern Pacific Ocean, May 2012'' and NMFS will prepare an Environmental Assessment (EA) titled ''Issuance of an Incidental Harassment Authorization to the Scripps Institution of Oceanography to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the South-Eastern Pacific Ocean, May, 2012.'' This EA will incorporate the NSF's NEPA analysis by reference pursuant to 40 CFR 1502.21 and NOAA Administrative Order (NAO) 216–6 § 5.09(d). NMFS's EA will rely on the environmental information disclosed and referenced in this notice and NMFS will evaluate public comments provided in responses to this notice when preparing its EA. Prior to making a final decision on the SIO's IHA application, NMFS will make a decision of whether or not to issue a Finding of No Significant Impact (FONSI).

Proposed Authorization

NMFS proposes to issue an IHA to SIO for conducting a marine geophysical survey in the south-eastern Pacific Ocean, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The duration of the IHA would not exceed one year from the date of its issuance.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed project and NMFS's preliminary determination of issuing an IHA (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 7, 2012.

Helen M. Golde,

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

[FR Doc. 2012–6054 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) 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: United States Patent and Trademark Office (USPTO).

Title: Recording Assignments.

Form Number(s): PTO–1594 and PTO–1595.

Agency Approval Number: 0651–0027.

Type of Request: Revision of a currently approved collection.

Burden: 234,414 hours annually.

Number of Respondents: 468,826 responses per year.

Avg. Hours per Response: The USPTO estimates that it will take the public approximately 30 minutes (0.5 hours) to prepare and submit a patent or trademark assignment recordation request.

Needs and Uses: Under 35 U.S.C. 261 and 262 and 15 U.S.C. 1057 and 1060, the USPTO records patent and trademark assignment documents that show the transfer of ownership of applications, patents, and trademark registrations from one entity to another. The USPTO provides cover sheets to ensure all the necessary assignment data is submitted for accurate recording. In order to file a request to record an assignment, the respondent must submit an appropriate cover sheet along with copies of the assignment documents to be recorded and payment of the appropriate fee. The recorded documents are available for public inspection, except for those documents that are sealed under secrecy orders or related to unpublished patent applications.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov*.

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *www.reginfo.gov*.

Paper copies can be obtained by:

- *Email: InformationCollection@uspto.gov*.

Include ''0651–0027 copy request'' in the subject line of the message.

• *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before April 12, 2012 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: March 8, 2012.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2012–5989 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Patents for Humanity Program (Formerly Humanitarian Program)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 this revision of a currently approved collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 14, 2012.

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

• *Email: InformationCollection@uspto.gov.* Include ''0651–0066 Patents for Humanity Program comment'' in the subject line of the message.

• *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

• *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to: Edward Elliott, Expert Advisor, Office of Policy and External Affairs, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–9300; or by email to *Edward.Elliott@uspto.gov.*

Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION

I. Abstract

The United States Patent and Trademark Office (USPTO) is conducting a voluntary pilot program to incentivize the distribution of patented technologies or products to address humanitarian needs. This pilot program is open to any patent owners or patent licensees, including inventors who have not assigned their ownership rights to others, assignees, and exclusive or non-exclusive licensees. The USPTO plans to collect information from applicants that describe what actions they have taken with their patented technology to address humanitarian needs among an impoverished population, or how they have furthered research by others on technologies for humanitarian purposes. Applications will be considered in four categories: Medical Technology, Food and Nutrition, Clean Technology, and Information Technology. It is expected that inventions from any field of technology will be eligible for the program, as long as they are applied to one of the four categories.

This pilot program is a follow-up to the responses received from the agency's ''Request for Comments on Incentivizing Humanitarian Technologies and Licensing Through the Intellectual Property System'' published September 20, 2010. On February 8, 2012, the USPTO published a notice in the **Federal Register** announcing the pilot program and outlining the procedures for participation in it. The USPTO plans to review the results from this pilot program to determine whether it should be extended.

In order to participate in this program, applicants must submit an application describing how their actions satisfy the competition criteria to address humanitarian issues. These applications may be up to five pages long and can be supplemented with additional supporting materials. The USPTO has developed two application forms that applicants can use to apply for participation in the Patents for Humanity Pilot Program—one application covers the humanitarian uses of technologies or products and the other application covers humanitarian research. There is also a form where applicants provide their contact information which the USPTO uses to notify applicants that they have been selected for an award. The applications must be submitted electronically through the *http://patentsforhumanity.challenge.gov* Web site. Submitted applications will be available on the public Web site after being screened for inappropriate material.

The applications will be reviewed by independent judges. A selection committee composed of representatives from other federal agencies and laboratories will make recommendations for the awards based on the judges'reviews. Those applicants who are selected for an award will receive a certificate redeemable to accelerate select matters before the USPTO and public recognition for their efforts, including an awards ceremony at the USPTO. The certificates can be redeemed to accelerate one of the following matters: An *ex parte* reexamination proceeding, including one appeal to the Board of Patent Appeals and Interferences (BPAI) from that proceeding; a patent application, including one appeal to the BPAI from that application; or an appeal to the BPAI of a claim twice rejected in a patent application or reissue application or finally rejected in an *ex parte* reexamination, without accelerating the underlying matter which generated the appeal. The certificates cannot be transferred to other parties.

The USPTO obtained an emergency clearance from OMB for this collection, which was approved on January 25, 2012. This approval expires on July 31, 2012l.

II. Method of Collection

Electronically through the *http://patentsforhumanity.challenge.gov* Web site.

III. Data

OMB Number: 0651–0066.

Form Number(s): N/A.

Type of Review: Revision of an existing collection.

Affected Public: Businesses or other for-profits, non-profit institutions, and individuals.

Estimated Number of Respondents: 1,010 responses per year, with an estimated 33% (333) submitted by small entities.

Estimated Time per Response: The USPTO estimates that it will take the public approximately four hours to complete the humanitarian program application and one hour to complete the petition to extend the redemption period, depending on the nature of the information. These estimated times include gathering the necessary information, preparing the application

and any supplemental supporting materials, and submitting the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 4,010 hours.

Estimated Total Annual Respondent Cost Burden: $709,400. The USPTO estimates that both attorneys and paralegals will complete the information in this collection. Using the professional hourly rate of $340 for attorneys in private firms and a paraprofessional hourly rate of $122 for the paralegals, the USPTO estimates $709,400 per year for the respondent cost burden for this collection.

Item	Estimated time for response (hours)	Estimated annual responses	Estimated annual burden hours
Humanitarian Program Application	.....	1,000	.....
• Attorney	1	.....	1,000
• Paralegal	3	.....	3,000
Petition to Extend the Redemption Period of the Humanitarian Awards Certificate	1	10	10
Totals	.....	1,010	4,010

Estimated Total Annual Non-hour Respondent Cost Burden: $0. This collection has no annual (non-hour) postage, operation or maintenance, or fee costs.

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, e.g., the use of automated collection techniques or other forms of information technology.

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

Dated: March 8, 2012.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2012–5988 Filed 3–12–12; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–14]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–14 with attached transmittal and policy justification.

Dated: March 8, 2012.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAR 07 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-14, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the United Kingdom for defense articles and services estimated to cost $300 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification

BILLING CODE 5001–06–C

Transmittal No. 12–14

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* United Kingdom.

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$250 million
Other	$50 million
TOTAL	$300 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 20 F–117–PW–100 engines, engine exchange kits, support equipment, Global Positioning Systems, communications equipment, spare and repair parts, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical, and logistics support services, and all other related elements of program support.

(iv) *Military Department:* Air Force (QCY Amd #4).

(v) *Prior Related Cases, if any:* FMS Case QCX-$485M–May10.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold: None.

(viii) *Date Report Delivered to Congress:* 7 March 2012.

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Kingdom—F117–PW–100 Engines

The Government of the United Kingdom (UK) has requested the possible sale of 20 F–117–PW–100 engines, engine exchange kits, support equipment, Global Positioning Systems, communications equipment, spare and repair parts, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical, and logistics support services, and all other related elements of program support. The proposed sale supports the continued UK access to the United States Air Force/Boeing GLOBEMASTER III Sustainment Partnership program supporting the UK's fleet of eight Boeing C–17A GLOBEMASTER III aircraft. The estimated cost is $300 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to maintain and improve the security of a key NATO ally that has been, and continues to be, an important force for major political stability and economic progress throughout Europe.

The UK was the first foreign customer for the C–17 GLOBEMASTER III cargo aircraft. Continued sustainment of this system by the UK helps alleviate the burden placed on U.S. forces supporting NATO operations. The C–17 provides the UK with increased force protection capability that enhances regional and global stability. The UK will have no problem absorbing these additional engines and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be The Boeing Company in Long Beach, California. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of additional U.S. Government or contractor representatives to the UK.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2012–6041 Filed 3–12–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Department of Defense, Assistant Secretary of Defense (Health Affairs).

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (Title 5, United States Code (U.S.C.), Appendix, as amended) and the Government in the Sunshine Act of 1976 (Title 5, U.S.C., Section 552b, as amended) the Department of Defense (DoD) announces the following Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel).

DATES: April 5, 2012, from 9 a.m. to 1 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: CDR Joseph Lawrence, Designated Federal Officer (DFO), Uniform Formulary Beneficiary Advisory Panel, 4130 Stanley Road, Suite 208, Building 1000, San Antonio, TX 78234–6012. Telephone: (210) 295–1271 Fax: (210) 295–2789. Email Address: *Baprequests@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director of TRICARE Management Activity, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

Meeting Agenda

1. Sign-In.
2. Welcome and Opening Remarks.
3. Public Citizen Comments.
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item).
   a. Attention Deficit Hyperactivity Disorder-Narcolepsy Agents.
   b. Anti-Platelet Hemorhelogic Agents.
   c. Diabetes Non-Insulin: Dipeptidyl Peptidase—4(DPP–4) Inhibitors.
   d. Designated Newly Approved Drugs in Already-Reviewed Classes.
   e. Pertinent Utilization Management Issues.
5. Panel Discussions and Vote.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and Title 41, Code of Federal Regulations (CFR), 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Work Meeting: Prior to the public meeting, the Panel will conduct an Administrative Work Meeting from 8 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue NW., Washington, DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's DFO. The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database at *https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than 5 business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a ''Sign-Up Roster'' available at the Panel meeting for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period, no further public comments will be accepted. Anyone who signs-up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation.

To ensure timeliness of comments for the official record, the Panel encourages that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: March 7, 2012.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

[FR Doc. 2012–5943 Filed 3–12–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before May 14, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 7, 2012.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Communications and Outreach

Type of Review: Extension.

Title of Collection: Application for the U.S. Presidential Scholars Program.

OMB Control Number: 1860–0504.

Total Estimated Number of Annual Responses: 2,600.

Total Estimated Number of Annual Burden Hours: 41,600.

Abstract: The United States Presidential Scholars Program is a national recognition program to honor outstanding graduating high school seniors. Candidates are invited to apply based on academic achievements on the SAT or ACT assessments, or on artistic merits based on participation in a national talent search. This program was established by Presidential Executive Orders 11155 and 12158.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04813. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2012–6081 Filed 3–12–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14368–000]

Catamount Metropolitan District; Notice of Application Tendered for Filing With the Commission, Notice of Application Accepted for Filing, Ready for Environmental Analysis, and Soliciting Motions To Intervene and Protests, Comments, Final Terms and Conditions, Recommendations, and Prescriptions

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

a. *Type of Filing:* Exemption from Licensing.

b. *Project No.:* P–14368–000.

c. *Dated Filed:* March 1, 2012.

d. *Submitted By:* Catamount Metropolitan District (The District).

e. *Name of Project:* Catamount Hydroelectric Project.

f. *Project description:* The District is proposing to replace an aging stoplog gate at the Lake Catamount dam with a concrete wall containing a 6-ft by 6-ft sluice gate that can be used for the rapid release of water and installing a 695-kilowatt hydroelectric generator. Proposed facilities include a new multi-level intake constructed within the existing stoplog channel, a penstock, a powerhouse, and a 1.2-mile-long buried transmission line from the powerhouse to the existing electric power line. The applicant estimates the project will to produce approximately 2,911 megawatt-hours of renewable energy annually.

g. *Location:* The proposed project would be located on the Yampa River, approximately five miles south of the town of Steamboat Springs in Routt County, Colorado. The proposed project would not occupy any federal lands.

h. *Filed Pursuant to:* Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

i. *Applicant Contact:* Gates Gooding, Catamount Metropolitan District, 1340 Blue Sage Drive, P.O. Box 772378, Steamboat Springs, CO 880477.

j. *FERC Contact:* Shana Murray at (202) 502–8333; or email at *shana.murray@ferc.gov*.

k. A copy of the license application is available for review at the Commission in the Public Reference Room or may be

viewed on the Commission's Web site (*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 (P–13871). For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph (h).

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

l. This application has been accepted for filing and is now ready for environmental analysis.

m. *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 in item (n) below.

n. *Deadline for filing motions to intervene and comments:* Due to the small size and particular location of this project as well as the applicant's close coordination with the federal and state agencies in the preparation of the application, the 60-day timeframe in 18 CFR 4.34(b) for filing motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions is shortened. Instead, motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions will be due 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the date of this notice.

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/ferconline.asp*) under the ''e-Filing'' link. For a simpler method of submitting text only comments click on ''Quick Comment''. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor 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.

o. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''COMMENTS,'' or ''REPLY COMMENTS,'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. With this notice, we are initiating consultation with the COLORADO STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR pt. 800.4.

q. Procedural Schedule and final amendments: We intend to accept the consultation that has occurred on this project during the pre-filing period as satisfying our requirements for the standard 3-stage consultation process under 18 CFR 4.38 and for National Environmental Policy Act scoping. Based on a review of the application, resource agency consultation letters, and comments filed to date, Commission staff intends to prepare a single environmental assessment (EA) for the proposed project.

Dated: March 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5977 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP12–78–000]

UGI Storage Company; Notice of Application

Take notice that on February 29, 2012, UGI Storage Company (UGI Storage), having its principal place of business at 5665 Leesport Avenue, Reading, PA 19605, filed an application in Docket No. CP12–78–000 pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, for a certificate of public convenience and necessity requesting authorization to (1) acquire and operate certain pipeline facilities from UGI Central Penn Gas, Inc. and (2) lease a portion of the facilities back to UGI Central Penn Gas, Inc. for approximately five years. Specifically, UGI Storage requests authorization to acquire a pipeline segment that originates near the town of Mansfield in Richmond Township, Tioga County, Pennsylvania and terminates at an interconnection with the existing system of UGI Storage

near the town of Wellsboro, Delmar Township, Tioga County, Pennsylvania, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Frank H. Markle, Senior Counsel, UGI Corporation, Box 858, Valley Forge, PA 19482 by calling (610) 768–3625, or email: *marklef@ugicorp.com*.

Pursuant to section 157.9 of the Commission's regulations, 18 CFR 157.9, within 90 days of this Notice, the Commission's 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's staff issuance of the 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 reach a final decision on a request for federal authorization within 90 days of the date of issuance of the Commission staff's 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 14 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 commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: March 27, 2012.

Dated: March 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5974 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–470–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: Tiger 2012 Non-Conforming Agreement Amendment—Chesapeake to be effective 12/1/2010.
Filed Date: 3/2/12.
Accession Number: 20120302–5150.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: RP12–471–000.
Applicants: ANR Pipeline Company.
Description: Contribution in Aid of Construction to be effective 4/2/2012.
Filed Date: 3/2/12.
Accession Number: 20120302–5188.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: RP12–472–000.
Applicants: UGI Storage Company.
Description: UGI Storage Proposed Revisions to FERC Gas Tariff to be effective 4/2/2012.
Filed Date: 3/2/12.
Accession Number: 20120302–5194.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: RP12–473–000.
Applicants: Energy West Development, Inc.
Description: Report of Energy West Development, Inc.
Filed Date: 3/2/12.
Accession Number: 20120302–5205.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: CP12–82–000.
Applicants: Transwestern Pipeline Company, LLC.
Description: Application for Pipeline Certificate Approving Abandonment.
Filed Date: 3/1/12.
Accession Number: 20120301–5107.
Comments Due: 5 p.m. ET 3/9/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–386–001.
Applicants: Gulf South Pipeline Company, LP.
Description: Amendment to Filing—submission of subsequent amendment to negotiated rate agreement to be effective 2/17/2012.

Filed Date: 2/17/12.
Accession Number: 20120217–5033.
Comments Due: 5 p.m. ET 3/9/12.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 5, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2012–5994 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–6627–001]

Vigue, Peter A.; Notice of Filing

Take notice that on March 6, 2012, Peter A. Vigue submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (2011) and section 45.8 of Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 45.8 (2011).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 27, 2012.

Dated: March 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5975 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP12–346–000]

PostRock KPC Pipeline, LLC; Notice of Technical Conference

Take notice that the Commission will convene a technical conference on Tuesday, March 27, 2012, at 10:30 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington DC 20426.

The technical conference will address all aspects of PostRock KPC Pipeline, LLC's (KPC) proposed tariff revisions to be part of its FERC Gas Tariff, Third Revised Volume No. 1. The proposed revisions would allow KPC to consider blending and pairing arrangements when deciding whether to exercise discretion under the tariff to accept receipts that fail to meet applicable gas quality specifications, as discussed in the Commission's Order issued on February 29, 2012.[1]

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to accessibility@ferc.gov or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Jenifer Lucas at (202) 502–8362 or email *jenifer.lucas@ferc.gov.*

Dated: March 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5972 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 15, 2012, 10 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda * **Note**—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

[1] *PostRock KPC Pipeline, LLC,* 138 FERC ¶ 61,146 (2012).

979TH—MEETING; REGULAR MEETING

March 15, 2012, 10 a.m.

Item No.	Docket No.	Company
		Administrative
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
		Electric
E–1	ER12–718–000	New York Independent System Operator, Inc.
E–2	EC11–83–000	Exelon Corporation.
	EC11–83–001	Constellation Energy Group, Inc.
E–3	RC11–6–000	North American Electric Reliability Corporation.
	RC12–1–000	
	RC12–2–000	
	RC12–6–000	
	RC12–7–000	
E–4	RM12–1–000	Transmission Planning Reliability Standards.
E–5	RM11–18–000	Transmission Planning Reliability Standards.
E–6	RM11–16–000	Transmission Relay Loadability Reliability Standard.
E–7	RM11–20–000	Automatic Underfrequency Load Shedding and Load Shedding Plans Reliability Standards.
E–8	RM01–8–012	Revised Public Utility Filing Requirements for Electric Quarterly Reports.
E–9	EL00–95–268	*San Diego Gas & Electric Company* v. *Sellers of Energy and Ancillary Services.*
	EL00–98–249	Investigation of Practices of the California Independent System Operator and the California Power Exchange Corporation.
	EL01–10–077	*Puget Sound Energy, Inc.* v. *Sellers of Energy and/or Capacity.*
	EL01–68–043	Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Market Systems Coordinating Council.
	IN03–10–077	Investigation of Anomalous Bidding Behavior and Practices in Western Markets.
	PA02–02–092	Fact-Finding Investigation Into Possible Manipulation of Electric and Natural Gas Prices.
	EL03–137–038	American Electric Power Service Corporation.
	EL03–180–067	Enron Power Marketing, Inc. and Enron Energy Services Inc.
	ER03–746–043	California Independent System Operator Corporation
	EL02–71–040	State of California, *ex rel.* Bill Lockyer, *Attorney General of the State of California* v. *British Columbia Power Exchange Corp.*
	EL09–56–017	State of California, *ex rel.* Edmund G. Brown Jr., *Attorney General of the State of California* v. *Powerex Corp.* (f/k/a British Columbia Power Exchange Corp.) *et al.*
E–10	OMITTED	
E–11	OMITTED	
E–12	EL11–51–000	Northern Laramie Range Alliance.
	QF10–649–000	Pioneer Wind Park 1, LLC.
	QF10–687–000	Pioneer Wind Park II, LLC.
E–13	OMITTED	
E–14	EL12–16–00	*Benjamin Riggs* v. *Rhode Island Public Utilities Commission.*
E–15	EL12–20–000	PPL Electric Utilities Corporation.
E–16	EL12–21–000	*Powerex Corp.* v. *United States Department of Energy, Western Area Power Administration—Sierra Nevada Region.*
E–17	ER12–806–000	California Independent System Operator Corporation.
E–18	ER11–3973–002	California Independent System Operator Corporation.
E–19	ER11–2875–004	PJM Interconnection, L.L.C.
	EL11–20–004	*PJM Power Providers Group* v. *PJM Interconnection, L.L.C.*
E–20	ER11–3972–001	PJM Interconnection, L.L.C.
	ER11–3973–001	California Independent System Operator Corporation.
	ER11–3953–001	ISO New England Inc. and New England Power Pool.
	ER11–3970–001	Midwest Independent Transmission System Operator, Inc.
	ER11–3949–002	New York Independent System Operator, Inc.
	ER11–3958–001	Southwest Power Pool, Inc.
	ER11–3967–001	
E–21	ER11–3972–002	PJM Interconnection, L.L.C.
E–22	ER11–3970–002	Midwest Independent Transmission System Operator, Inc.
E–23	OMITTED	
E–24	OMITTED	
E–25	ER12–757–000	ISO New England Inc.
E–26	ER11–2580–001	ISO New England Inc.
	ER11–2580–002	
E–27	ER11–3953–002	ISO New England Inc. and New England Power Pool.
	ER11–3953–003	
E–28	ER08–1281–010	New York Independent System Operator, Inc.
E–29	ER11–3949–003	New York Independent System Operator, Inc.
E–30	OMITTED	
E–31	OMITTED	
E–32	ER09–1148–000	PPL Electric Utilities Corporation.
E–33	ER11–3967–002	Southwest Power Pool, Inc.

979TH—MEETING; REGULAR MEETING—Continued

March 15, 2012, 10 a.m.

Item No.	Docket No.	Company
E–34	ER11–3967–003 EL05–121–006	PJM Interconnection, L.L.C.
	Gas	
G–1	RP11–1999–002	Texas Gas Transmission, LLC.
G–2	RP11–2569–002	Texas Gas Transmission, LLC.
G–3	RP11–2569–003 OR12–7–000	Magellan Pipeline Company, L.P.
	Hydro	
H–1	P–14107–000	Lock+Hydro Friends Fund I.
H–2	P–739–026	Appalachian Power Company.
H–3	P–2738–081	New York State Electric and Gas Corporation.
	Certificates	
C–1	CP11–44–001 RP11–1597–001	Tennessee Gas Pipeline Company.
C–2	CP11–523–000	Sawgrass Storage, L.L.C.

Dated: March 8, 2012.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.govs'* Calendar of Events and locating this event in the Calendar. The event will contain a link to its Web cast. The Capitol Connection provides technical support for the free Web cast. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2012–6108 Filed 3–9–12; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 14180–000, 14193–000]

Lock+ Hydro Friends Fund XLV, FFP Project 2, LLC; Notice Announcing Filing Priority for Preliminary Permit Applications

On February 22, 2012, the Commission held a drawing to determine priority among competing preliminary permit applications with identical filing times. In the event that the Commission concludes that none of the applicants' plans are better adapted than the others to develop, conserve, and utilize in the public interest the water resources of the region at issue, the priority established by this drawing will serve as the tiebreaker. Based on the drawing, the order of priority is as follows:

1. Lock+ Hydro Friends Fund XLV.	Project No. 14180–000.
2. FFP Project 2, LLC	Project No. 14193–000.

Dated: March 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5995 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14335–000]

Stoughton Water Power Company; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 7, 2011, the Stoughton Water Power Company filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Stoughton Dam Water Power Project No. 14335, to be located at the existing Stoughton Dam on the Yahara River, near the City of Stoughton, in Dane County, Wisconsin. The Stoughton Dam is owned by the City of Stoughton.

The proposed project would consist of: (1) The existing Stoughton Dam; (2) an existing 70-foot-long by 38-foot-wide concrete powerhouse; (3) two new or refurbished hydropower turbines and generators having a total combined generating capacity of 192 kilowatts; (4) an existing 200-foot-long by 40-foot-wide headrace; (5) a 25-foot-long, 12-kilovolt transmission line; and (6) appurtenant facilities. The project would have an estimated annual generation of 450,000 kilowatt-hours.

Applicant Contact: Mr. Thomas J. Reiss, Jr., P.O. Box 553, 319 Hart Street Watertown, WI 53094; (920) 261–2319.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, and competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14335–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5976 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–74–000]

El Paso Natural Gas Company; Notice of Amendment to Presidential Permit

Take notice that on February 20, 2012, El Paso Natural Gas Company (El Paso), P.O. Box 1087, Colorado Springs, Colorado, filed an application in Docket No. CP12–74–000, to amend its Presidential Permit granted in Docket No. CP93–253–000 on November 29, 1993, as amended by orders issued June 11, 1997 and January 31, 2002. In its amendment, El Paso requests that its Samalayuca Presidential Permit for the existing international border crossing located in El Paso County, Texas (Samalayuca Crossing) be amended to increase the daily export capacity from 308,000 Mcf/d to 544,500 Mcf/d of natural gas from the United States to Mexico. No new facilities will be added nor will there be any physical changes or modifications to the upstream facilities or the Samalayuca Crossing, 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 Susan Stires, Director, Regulatory Affairs, El Paso Western Pipelines, Two North Nevada Avenue, P.O. Box 1087, Colorado Springs, Colorado 80944, or call at 719–667–7514, or email at *susan.stires@elpaso.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: March 27, 2012.

Dated: March 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5973 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Southern Company Services, Inc.:

2012 Southeastern Regional Transmission Planning Process (SERTP) 1st Quarter Meeting—Regional Planning Stakeholders' Group Meeting and Interactive Training Session

March 14, 2012, 9 a.m.–5 p.m., Local Time

The above-referenced meeting will be held at:

Alabama Power Company Corporate Headquarters, Room 4H, Birmingham, Alabama

The above-referenced meeting is open to stakeholders.

Further information may be found at: *www.southeasternrtp.com.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER10–2881, *Alabama Power Company, et al.*

Docket No. ER10–2882, *Southern Power Company, et al.*

Docket No. ER10–2883, *Mississippi Power Company, et al.*

Docket No. ER10–2884, *Georgia Power Company, et al.*

Docket No. ER10–2885, *Gulf Power Company, et al.*

Docket No. ER11–3429, *Alabama Power Company*

Docket No. ER12–337, *Mississippi Power Company*

For more information, contact Valerie Martin, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6139 or *Valerie.Martin@ferc.gov.*

Dated: March 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5993 Filed 3–12–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9513–1]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (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 currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 0155.10; Certification of Pesticide Applicators (Renewal); 40 CFR parts 152 and 171; was approved on 02/03/2012; OMB Number 2070–0029; expires on 02/28/2015; Approved with change.

EPA ICR Number 1856.08; NESHAP for Primary Lead Processing; 40 CFR part 63 subparts A and TTT; was approved on 02/03/2012; OMB Number 2060–0414; expires on 02/28/2015; Approved without change.

EPA ICR Number 2372.03; Mandatory Reporting of Greenhouse Gases: Injection and Geological Sequestration of Carbon Dioxide, Subparts RR and UU (Technical Correction); 40 CFR part 98, subparts RR and UU; was approved on 02/06/2012; OMB Number 2060–0649; expires on 12/31/2013; Approved without change.

EPA ICR Number 1712.08; NESHAP for Shipbuilding and Ship Repair Facilities—Surface Coating; 40 CFR part 63 subparts A and II; was approved on 02/06/2012; OMB Number 2060–0330; expires on 02/28/2015; Approved without change.

EPA ICR Number 2130.04; Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs, and Projects (Renewal); 40 CFR part 93 subpart A; was approved on 02/08/2012; OMB Number 2060–0561; expires on 02/28/2015; Approved without change.

EPA ICR Number 1069.10; NSPS for Primary and Secondary Emissions from Basic Oxygen Furnaces; 40 CFR part 60 subparts A, N and Na; was approved on 02/13/2012; OMB Number 2060–0029; expires on 02/28/2015; Approved without change.

EPA ICR Number 2263.03; NSPS for Petroleum Refineries; 40 CFR part 60 subparts A and Ja; was approved on 02/13/2012; OMB Number 2060–0602; expires on 02/28/2015; Approved without change.

EPA ICR Number 1054.11; NSPS for Petroleum Refineries; 40 CFR part 60 subparts A and J; was approved on 02/13/2012; OMB Number 2060–0022; expires on 02/28/2015; Approved without change.

EPA ICR Number 1750.06; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal); 40 CFR part 59 subpart D; was approved on 02/13/2012; OMB Number 2060–0393; expires on 02/28/2015; Approved without change.

EPA ICR Number 2394.02; Control of Greenhouse Gas Emissions from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards (Final Rule); 40 CFR parts 86, 523, 534, 535, 1036 and 1037; was approved on 02/17/2012; OMB Number 2060–0678; expires on 02/28/2015; Approved with change.

EPA ICR Number 2458.01; Fuel Use Requirements for Great Lakes Steamships (Direct Final); 40 CFR 1043.95; was approved on 02/21/2012; OMB Number 2060–0679; expires on 02/28/2015; Approved with change.

EPA ICR Number 2402.03; Willingness to Pay Survey for Section 316(b) Existing Facilities Cooling Water Intake Structures; was approved on 02/21/2012; OMB Number 2040–0283; expires on 07/31/2013; Approved with change.

EPA ICR Number 1230.31; Prevention of Significant Deterioration and Nonattainment New Source Review (Burden Transfer from 2060–0609); 40 CFR 49.151–49.175, 51.160–51.166, 52.21—52.24, 40 CFR part 51 Appendix S; was approved on 02/28/2012; OMB Number 2060–0003; expires on 04/30/2012; Approved with change.

EPA ICR Number 2237.03; NESHAP for Gasoline Distribution Bulk

Terminals, Bulk Plants, Pipeline Facilities and Gasoline Dispensing Facilities; 40 CFR part 63 subpart A, BBBBBB and CCCCCC; was approved on 02/29/2012; OMB Number 2060–0620; expires on 02/28/2015; Approved without change.

EPA ICR Number 0746.08; NSPS for Calciners and Dryers in Mineral Industries; 40 CFR part 60 subparts A and UUU; was approved on 02/29/2012; OMB Number 2060–0251; expires on 02/28/2015; Approved without change.

EPA ICR Number 2267.03; NESHAP for Iron and Steel Foundries; 40 CFR part 63 subparts A and ZZZZZ; was approved on 02/29/2012; OMB Number 2060–0605; expires on 02/28/2015; Approved without change.

EPA ICR Number 0660.11; NSPS for Metal Coil Surface Coating; 40 CFR part 60 subparts A and TT; was approved on 02/29/2012; OMB Number 2060–0107; expires on 02/28/2015; Approved without change.

EPA ICR Number 1557.08; NSPS for Municipal Solid Waste Landfills; 40 CFR part 60 subparts A and WWW; was approved on 02/29/2012; OMB Number 2060–0220; expires on 02/28/2015; Approved without change.

EPA ICR Number 1131.10; NSPS for Glass Manufacturing Plants; 40 CFR part 60 subparts A and CC; was approved on 02/29/2012; OMB Number 2060–0054; expires on 02/28/2015; Approved without change.

EPA ICR Number 1597.10; Requirements and Exemptions for Specific RCRA Wastes (Renewal); 40 CFR 260.23, 40 CFR part 266 subpart N, 40 CFR 273.8, 273.14, 273.15, 273.18, 273.32, 273.34, 273.35, 273.38, 273.39, 273.61, 273.62, 279.10, 279.11, 279.42–279.44, 279.52–279.55, 279.57, 279.63, and 279.82; was approved on 02/29/2012; OMB Number 2050–0145; expires on 02/28/2015; Approved without change.

EPA ICR Number 0186.12; NESHAP for Vinyl Chloride; 40 CFR part 61 subparts A and F; was approved on 06/29/2011; OMB Number 2060–0071; expires on 06/30/2014; Approved without change.

EPA ICR Number 0661.10; NSPS for Asphalt Processing and Roofing Manufacturing (Renewal); 40 CFR part 60 subparts A and UU; was approved on 06/29/2011; OMB Number 2060–0002; expires on 06/30/2014; Approved without change.

EPA ICR Number 1125.06; NESHAP for Beryllium Rocket Motor Fuel Firing (Renewal); 40 CFR part 61 subparts A and D; was approved on 06/29/2011; OMB Number 2060–0394; expires on 06/30/2014; Approved without change.

Comment Filed

EPA ICR Number 2447.01; NESHAP for Primary Aluminum Production; in 40 CFR part 63 subpart LL; OMB filed comment on 02/03/2012.

EPA ICR Number 2028.07; NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters; in 40 CFR part 63 subparts A and DDDDD; OMB filed comment on 02/06/2012.

EPA ICR Number 2427.01; Aircraft Engines—Supplemental Information Related to Exhaust Emissions (Proposed rule); in 40 CFR 87.42 and 87.46; OMB filed comment on 02/21/2012.

Withdrawn and Continue

EPA ICR Number 0938.19; General Administrative Requirements for Assistance Programs (Change to Add RPPR); Withdrawn from OMB on 02/09/2012.

John Moses,

Director, Collections Strategies Division.

[FR Doc. 2012–6008 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0239; FRL–9512–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Grain Elevators (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 12, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0239, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov;* or by mail to: (1) EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Office of Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2227A, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 *FR* 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0239, which is available for public viewing online at *http://www.regulations.gov* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Grain Elevators (Renewal).

ICR Numbers: EPA ICR Number 1130.10, OMB Control Number 2060–0082.

ICR Status: This ICR is scheduled to expire on April 30, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The New Source Performance Standards (NSPS) for Grain Elevators were proposed on January 18, 1977 (40 CFR part 60, subpart DD), promulgated on August 3, 1978, and amended on October 17, 2000 (65 *FR* 61759). These standards apply to each affected facility at any grain terminal elevator or any grain storage elevator. The facilities are each truck unloading station, truck loading station, barge and ship loading station, railcar loading station, railcar unloading station, grain dryer and all grain handling operations that commenced construction, modification or reconstruction after August 3, 1978.

Owners or operators of the affected facilities must make a one-time-only report of the date of construction or reconstruction, notification of the actual date of startup, notification of any physical or operational change to existing facility that may increase the rate of emission of the regulated pollutant, notification of initial performance test; and results of initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction, or any period during which the monitoring system is inoperative. Performance tests are the Agency's records of a source's initial capability to comply with emissions standards and not the operating conditions under which compliance was to achieve. An annual summary report is also required.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart DD, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information estimated to average 10 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information; and disclosing and providing information. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of grain elevators.

Estimated Number of Respondents: 200.

Frequency of Response: Occasionally, initially and annually.

Estimated Total Annual Hour Burden: 2,070.

Estimated Total Annual Cost: $198,346, which includes $198,346 in labor costs, no capital/startup costs and no operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. However, there is an increase in the total labor and Agency costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in cost estimates reflects updated labors rates available from the Bureau of Labor Statistics.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–6014 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0443; FRL 9513–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Public Water System Supervision Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before April 12, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2011–0443, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Matthew Reed, Drinking Water Protection Division, Office of Ground Water and Drinking Water, (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–4719; email address: *reed.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 5, 2011 (76 FR 39092), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2011–0443, which is available for online viewing at *www.regulations.gov*, or in person

viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Public Water System Supervision Program (Renewal)

ICR numbers: EPA ICR No. 0270.45, OMB Control No. 2040–0090

ICR Status: This ICR is scheduled to expire on March 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Public Water System Supervision (PWSS) Program Renewal ICR examines public water system, primacy agency, EPA, and tribal operator certification provider burden and costs for ''cross-cutting'' recordkeeping and reporting requirements (i.e., the burden and costs for complying with drinking water information requirements that are not associated with contaminant-specific rulemakings). These activities which have record keeping and reporting requirements that are mandatory for compliance with 40 CFR parts 141 and 142 include the following: Consumer Confidence Reports (CCRs), Primacy Regulation Activities, Variance and Exemption Rule (V/E Rule), General State Primacy Activities, Public Notification (PN) and Proficiency Testing (PT) Studies for Drinking Water Laboratories. The information collection activities for both the Operator Certification/Expense Reimbursement Grant Program and the Capacity Development Program are driven by the grant withholding and reporting provisions under § 1419 and § 1420, respectively, of the Safe Drinking Water Act. Although the Tribal Operator Certification Program is voluntary, the information collection is driven by grant eligibility requirements outlined in the Drinking Water Infrastructure Grant Tribal Set-Aside Program Final Guidelines and the Tribal Drinking Water Operator Certification Program Guidelines.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.06 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of public water systems who must report to the primacy agency. Primacy agencies, which include States, Tribes (if they have been authorized to act as primacy agencies), and EPA Regions that act as primacy agencies in Indian country and States that do not have primacy. Laboratories conducting PT to achieve state certification, which permits them to analyze samples for compliance with National Primary Drinking Water Regulations (NPDWRs). (PT vendors are not considered respondents because they are paid for their incurred burden and costs via the prices that laboratories pay for the PT standards.)

Estimated Number of Respondents: 154,938.

Frequency of Response: Varies by requirement (i.e., on occasion, monthly, quarterly, semi-annually, annually, biennially, and every 3, 6, and 9 years).

Estimated Total Annual Hour Burden: 4,113,408.

Estimated Total Annual Cost: $187,647,000, which includes $40,019,000 in capital and operating & maintenance (O&M) costs.

Changes in the Estimates: There is an increase of 199,864 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due primarily to consultations with respondents which yielded more accurate estimates of the burden for various activities. These were partially offset by burden decreases from a smaller respondent universe and reduced reporting due to a new enforcement tracking system and the discontinuation of a grant program.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–6007 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0242; FRL–9513–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Kraft Pulp Mills (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 12, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0242, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA

Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 *FR* 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0242, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Kraft Pulp Mills (Renewal).

ICR Numbers: EPA ICR Number 1055.10, OMB Control Number 2060–0021.

ICR Status: This ICR is schedule to expire on April 30, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart BB.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required, at a minimum, semiannually.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart BB as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information estimated to average 37 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information. All existing ways will have to adjust to comply with any previously-applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of kraft pulp mills.

Estimated Number of Respondents: 106.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 16,086.

Estimated Total Annual Cost: $5,723,477, which is comprised of $1,541,377 in labor costs, $344,900 in capital/startup costs, and operation and maintenance (O&M) costs of $3,837,200.

Changes in the Estimates: The increase in burden from the most recently approved ICR is due to two adjustments: (1) There is an increase in the average number of respondents expected to become subject to the standards over the next three years; and (2) this ICR uses updates labor rates for each of the three labor categories.

The increase in O&M costs is due to an increase in the average number of respondents expected to become subject to the standards over the next three years.

There is also an increase in Agency costs, which is due to the use of the most updated labor rates.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–6009 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0238; FRL–9512–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Natural Gas Transmission and Storage (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces

that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR that is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 12, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0238, to: (1) EPA online using *http://www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Office of Compliance Assessment and Media Programs Division, Mail Code 2227A, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0238, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744 and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Natural Gas Transmission and Storage (Renewal).

ICR Numbers: EPA ICR Number 1789.07, OMB Control Number 2060–0418.

ICR Status: This ICR is scheduled to expire on April 30, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Natural Gas Transmission and Storage (40 CFR part 63, subpart HHH) were proposed on February 6, 1998, and promulgated on June 17, 1999. These regulations apply to existing facilities and new facilities that are major sources of hazardous air pollutants (HAP) and that either transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user (if there is no local distribution company).

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart HHH, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously-applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of natural gas transmission and storage facilities.

Estimated Number of Respondents: 836.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 950.

Estimated Total Annual Cost: $91,018, which includes $91,018 in labor costs, no capital/startup costs, and no operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in labor hours and costs for both the respondents and the Agency from the most recently approved ICR. This is due to two considerations. First, the estimated number of respondents subject to the standard has increased due to industry growth in the past three years. Second, this ICR uses updated labor rates to reflect the most recent data from the Bureau of Labor Statistics.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–6015 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9646–3]

Notification of a Public Meeting and Two Public Teleconferences for the Clean Air Scientific Advisory Committee's Review of EPA's Integrated Science Assessment for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public meeting and a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel to conduct a peer review of EPA's *Integrated Science Assessment for Lead (Second External Review Draft—February 2012),* and a public teleconference of the Chartered CASAC to conduct a quality review of the Panel's draft report.

DATES: The CASAC Lead Review Panel face-to-face public meeting will be held on Tuesday, April 10, 2012, from 8:30 a.m. to 5:30 p.m. (Eastern Time) and on Wednesday, April 11, 2012, from 8:30 a.m. to 12:30 p.m. (Eastern Time). The follow-up public teleconference of the CASAC Lead Review Panel will be held on Wednesday, May 30, 2012, from 12 p.m. to 3 p.m. (Eastern Time). The quality review public teleconference of the Chartered CASAC will be held on Monday, July 16, 2012, from 10 a.m. to 12 p.m. (Eastern Time).

ADDRESSES: The CASAC Lead Review Panel face-to-face public meeting will be held at the Marriott at Research Triangle Park hotel, 4700 Guardian Drive, Durham, North Carolina 27703 (919–941–6200). The CASAC Lead Review Panel's follow-up public teleconference and the Chartered CASAC's quality review public teleconference will take place via telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the CASAC Lead Review Panel's face-to-face public meeting and follow-up public teleconference may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), via telephone at: (202) 564–2050 or email at *yeow.aaron@epa.gov.* Any member of the public who wants further information concerning the Chartered CASAC's quality review public teleconference may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), via telephone at (202) 564–2073 or email at *stallworth.holly@epa.gov.* General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409D(d)(2) to provide advice, information, and recommendations to the Administrator on the scientific and technical aspects of issues related to the criteria for air quality standards, research related to air quality, sources of air pollution, and the strategies to attain and maintain air quality standards and to prevent significant deterioration of air quality. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the CASAC Lead Review Panel will hold a face-to-face public meeting to peer review EPA's second external review draft of the *Integrated Science Assessment for Lead (February 2012).* The CASAC Lead Review Panel will hold a follow-up public teleconference to discuss its draft review and the Chartered CASAC will hold a public teleconference to discuss the Panel's draft review. This is being prepared as part of the review of the National Ambient Air Quality Standards (NAAQS) for lead. The CASAC Lead Review Panel and the CASAC will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including lead. EPA is currently reviewing the primary (health-based) and secondary (welfare-based) NAAQS for lead. The CASAC Lead Review Panel previously reviewed EPA's first external review draft of the *Integrated Science Assessment for Lead (May 2011)* as reported in a CASAC letter to the EPA Administrator, dated December 9, 2011 (EPA–CASAC–12–002).

Technical Contacts: Any technical questions concerning the *Integrated Science Assessment for Lead (Second External Review Draft—February 2012)* should be directed to Dr. Ellen Kirrane (*kirrane.ellen@epa.gov*).

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/casac/.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments for a federal advisory committee to consider pertaining to EPA's charge to the panel or meeting materials. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation will be limited to five minutes for the public face-to-face meeting and will be limited to three minutes for the public teleconferences. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by April 3, 2012, to be placed on the list of public speakers for the CASAC Lead Review Panel's face-to-face public meeting and by May 23, 2012, for the CASAC Lead Review Panel's follow-up public teleconference. Interested parties should contact Dr. Holly Stallworth, DFO, in writing (preferably via email) at the contact information noted above by July 9, 2012, to be placed on the list of public speakers for the Chartered CASAC quality review public teleconference. *Written Statements:* Written statements should be supplied to the Mr. Yeow, DFO, via email at the contact information noted above by April 3, 2012, for the CASAC Lead Review Panel's face-to-face public meeting, and by May 23, 2012, for the CASAC Lead Review Panel's follow-up public teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied to Dr. Stallworth, DFO, via email at the contact information noted above by July 9, 2012, for the Chartered CASAC's quality review public teleconference. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page

for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov*. To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to the public meeting and/or teleconference to give EPA as much time as possible to process your request.

Dated: March 6, 2012.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2012–6029 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9645–7]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122 (i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas.

The settlement requires the six (6) settling parties to pay a total of $118,503.00 as payment of response costs to the Hazardous Substances Superfund, as well as remove the remaining 708 drums still onsite. The settlement includes a covenant not to sue pursuant to Section 106 and 107 of CERCLA, 42, U.S.C. 9606 and 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before April 12, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Cynthia Brown at, 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–7480. Comments should reference the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas, and EPA Docket Number 06–11–08, and should be addressed to Cynthia Brown at the address listed above.

FOR FURTHER INFORMATION CONTACT: Cynthia Brown 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–7480.

Dated: February 29, 2012.

Al Armendariz,

Regional Administrator.

[FR Doc. 2012–6026 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9646–7]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Kentucky Environmental Foundation in the United States District Court for the District of Columbia: *Kentucky Environmental Foundation* v. *Jackson,* No. 11–1253 (D.D.C.). Plaintiff filed a complaint and a first amended complaint alleging that EPA failed to take timely action to approve, disapprove, or approve in part and disapprove in part the State of Kentucky's State Implementation Plan submittals or potions of submittals for: (1) The Kentucky portion of the Cincinnati-Hamilton area, submitted to EPA on or about December 3, 2008, with regard to the 1997 annual fine particular matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS); and (2) the Kentucky portion of the Louisville area, submitted to EPA on or about December 3, 2008, with regard to the 1997 annual $PM_{2.5}$ NAAQS. The proposed consent decree establishes a deadline of October 1, 2012, for EPA to take action on the Louisville submittal.

DATES: Written comments on the proposed consent decree must be received by April 12, 2012.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2012–0190, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov*; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hogan, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–3244; fax number (202) 564–5603; email address: *Hogan.stephanie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by Kentucky Environmental Foundation seeking to compel the Agency to take final action under sections 110(k)(2) and (3) of the CAA, 42 U.S.C. 7410(k)(2) and (3), on the State of Kentucky's State Implementation Plan (SIP) submittals dated December 3, 2008. Specifically, the lawsuit seeks to compel the Agency to take final action, pursuant to section 110(k) of the CAA, 42 U.S.C. 7410(k), on the 1997 P.M.$_{2.5}$ nonattainment area requirements, including the attainment demonstrations, contingency measures, emissions inventories, and reasonably

available control measures/reasonably available control technology requirements in the Cincinnati-Hamilton SIP and the Louisville SIP.

On March 9, 2011, and September 29, 2011, respectively, EPA determined that the Cincinnati-Hamilton and the Louisville areas had attained the 1997 annual $PM_{2.5}$ NAAQS. *See* 76 FR 12860; 76 FR 60373. On September 30, 2011, the State of Kentucky withdrew its previously submitted attainment demonstrations, contingency measures, and reasonably available control measures for the Cincinnati-Hamilton SIP and the Louisville SIP but did not withdraw any portions of its submittals for the Cincinnati-Hamilton SIP and the Louisville SIP that pertain to emissions inventories. On December 15, 2011, EPA approved the emissions inventory in the Cincinnati-Hamilton SIP. *See* 76 FR 77903.

The proposed consent decree requires that, no later than October 1, 2012, the appropriate EPA official shall sign a notice of final rulemaking approving, disapproving, or approving in part and disapproving in part the emissions inventory in the Louisville SIP. In addition, the proposed consent decree requires that, following signature, EPA shall expeditiously deliver the notice to the Office of the Federal Register for publication in the **Federal Register** and shall thereafter provide a copy of the notice to Plaintiff within ten (10) days. After EPA fulfills its obligations under the proposed consent decree, the consent decree may be terminated.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the proposed consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2012–0190) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov*, your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: March 6, 2012.

Patricia Embrey,

Acting Associate General Counsel.

[FR Doc. 2012–6028 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9646–6]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to resolve a lawsuit filed by Midwest Environmental Defense Center, Inc., and Clean Water Action Council of Northeast Wisconsin (''Plaintiffs''), in the United States District Court for the District of Columbia: *Midwest Environmental Defense Center, Inc., et al.* v. *Jackson,* No. 11–cv–02137–BAH (D. D.C.). On July 23, 2011, Plaintiffs filed a deadline suit to compel the

Administrator to respond to an administrative petition seeking EPA's objection to a CAA Title V operating permit issued by the Wisconsin Department of Natural Resources, for the Georgia Pacific Consumer Products Plant in Green Bay, Wisconsin. Under the proposed consent decree, EPA would agree to respond to the petition by July 23, 2012, or within 14 days after entry of the consent decree by the Court, whichever is later.

DATES: Written comments on the proposed consent decree must be received by *April 12, 2012.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2012–0143, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Susan Stahle, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–1272; fax number (202) 564–5603; email address: *stahle.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit alleging that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA title V permit issued by the Wisconsin Department of Natural Resources for the Georgia Pacific Consumer Products Plant in Green Bay, Wisconsin. Under the proposed consent decree, EPA would agree to respond to the petition by July 23, 2012, or within 14 days after entry of the consent decree by the Court, whichever is later, and pay specified attorneys fees to the Plaintiffs. The Court would then dismiss the case with prejudice once EPA has fulfilled these obligations under the consent decree.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2012–0143) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: March 2, 2012.

Patricia Embrey,

Acting Associate General Counsel.

[FR Doc. 2012–6027 Filed 3–12–12; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place: Tuesday, March 20, 2012 from 11 a.m. to 3 p.m. A break for lunch will be at the expense of the attendee. Security processing will be necessary for reentry into the building. The meeting will be held at Ex-Im Bank in the Main Conference Room 1143, 811 Vermont Avenue NW., Washington, DC 20571.

Agenda: Agenda items include a briefing of the Advisory Committee members regarding the progress of the Bank's First Quarter, its legislative status and the competitiveness report process.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the guard's desk as part of the clearance process into the building, and you may contact Susan Houser to be placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to March 15, 2011, Susan Houser, Room 1273, 811 Vermont Avenue NW., Washington, DC 20571, Voice: (202) 565–3232.

FOR FURTHER INFORMATION CONTACT: For further information, contact Houser, Room 1273, 811 Vermont Ave. NW., Washington, DC 20571, (202) 565–3232.

Angela Mariana Freyre,

Senior Vice President and General Counsel.

[FR Doc. 2012–5966 Filed 3–12–12; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: March 5, 2012.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank Name	City	State	Date closed
10428	Global Commerce Bank	Doraville	GA	3/2/2012

[FR Doc. 2012–5938 Filed 3–12–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2012–N–02]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2010 fifth round review cycle under the FHFA's community support requirements regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to FHFA.

DATES: Bank members selected for the review cycle under the FHFA's community support requirements regulation must submit completed Community Support Statements to FHFA on or before April 27, 2012.

ADDRESSES: Bank members selected for the 2010 fifth round review cycle under the FHFA's community support requirements regulation must submit completed Community Support Statements to FHFA either by hard-copy mail at the Federal Housing Finance Agency, Ninth Floor, Housing Mission and Goals (DHMG), 400 Seventh Street SW., Washington, DC 20024, or by electronic mail at *hmgcommunitysupportprogram@fhfa.gov*.

FOR FURTHER INFORMATION CONTACT: Rona Richardson, Office Assistant, Housing Mission and Goals (DHMG), Federal Housing Finance Agency, by telephone at 202–649–3224, by electronic mail at *Rona.Richardson@FHFA.gov,* or by hard-copy mail at the Federal Housing Finance Agency, Ninth Floor, 400 Seventh Street SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires FHFA to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by FHFA must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.,* and record of lending to first-time

homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, FHFA has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria FHFA must apply in evaluating a member's community support performance. *See* 12 CFR part 1290. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 1290.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 1290.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 1290.3(c).

Under the rule, FHFA selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 1290.2(a). FHFA will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to FHFA by the April 27, 2012 deadline prescribed in this notice. 12 CFR 1290.2(b)(1)(ii) and (c). On or before March 27, 2012, each Bank will notify the members in its district that have been selected for the 2010 fifth round community support review cycle that they must complete and submit to FHFA by the deadline a Community Support Statement. 12 CFR 1290.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form (OMB No. 2590–0005), which also is available on the FHFA's Web site: *http://www.fhfa.gov/webfiles/2924/FHFAForm060.pdf*. Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

FHFA has selected the following members for the 2010 fifth round community support review cycle:

Federal Home Loan Bank of Boston—District 1

People's United Bank	Bridgeport	Connecticut.
Farmington Bank	Farmington	Connecticut.
Liberty Bank	Middletown	Connecticut.
Naugatuck Savings Bank	Naugatuck	Connecticut.
Citizens National Bank	Putnam	Connecticut.
Rockville Bank	South Windsor	Connecticut.
The Simsbury Bank and Trust Company	Simsbury	Connecticut.
Savings Institute Bank and Trust Company	Willimantic	Connecticut.
Windsor Federal Savings & Loan Association	Windsor	Connecticut.
Down East Credit Union	Baileyville	Maine.
Ocean Communities Federal Credit Union	Biddeford	Maine.
PeoplesChoice Credit Union	Biddeford	Maine.
The First, N.A.	Damariscotta	Maine.
The Bank of Maine	Gardiner	Maine.
Androscoggin Savings Bank	Lewiston	Maine.
Machias Savings Bank	Machias	Maine.
Katahdin Federal Credit Union	Millinocket	Maine.
Sanford Institution For Savings	Sanford	Maine.
U-Mass Five College Federal Credit Union	Hadley	Massachusetts.
Barre Savings Bank	Barre	Massachusetts.
The Community Bank	Brockton	Massachusetts.
HarborOne Credit Union	Brockton	Massachusetts.
Chicopee Savings Bank	Chicopee	Massachusetts.
Everett Credit Union	Everett	Massachusetts.
Framingham Co-operative Bank	Framingham	Massachusetts.
Dean Co-Operative Bank	Franklin	Massachusetts.
Greenfield Savings Bank	Greenfield	Massachusetts.
Hanscom Federal Credit Union	Hanscom Air Force Base	Massachusetts.
Commonwealth Cooperative Bank	Boston	Massachusetts.
Lee Bank	Lee	Massachusetts.
Mayflower Co-operative Bank	Middleborough	Massachusetts.
Millbury Federal Credit Union	Millbury	Massachusetts.
First Citizen's Federal Credit Union	New Bedford	Massachusetts.
Newburyport Five Savings Bank	Newburyport	Massachusetts.
Norwood Co-Operative Bank	Norwood	Massachusetts.
North Shore Bank, A Co-Operative Bank	Peabody	Massachusetts.
Berkshire Bank	Pittsfield	Massachusetts.
Pittsfield Co-Operative Bank	Pittsfield	Massachusetts.
Central Bank	Somerville	Massachusetts.
Savers Co-Operative Bank	Southbridge	Massachusetts.
Stoneham Co-Operative Bank	Stoneham	Massachusetts.
FamilyFirst Bank	Ware	Massachusetts.
United Bank	West Springfield	Massachusetts.
Weymouth Bank	East Weymouth	Massachusetts.
Winchester Co-Operative Bank	Winchester	Massachusetts.
Bay State Savings Bank	Worcester	Massachusetts.
Claremont Savings Bank	Claremont	New Hampshire.
Meredith Village Savings Bank	Meredith	New Hampshire.
Triangle Credit Union	Nashua	New Hampshire.
Lake Sunapee Bank, FSB	Newport	New Hampshire.
Sugar River Bank	Newport	New Hampshire.

Piscataqua Savings Bank	Portsmouth	New Hampshire.
Service Credit Union	Portsmouth	New Hampshire.
Connecticut River Bank, N.A.	Charlestown	New Hampshire.
Washington Trust Company	Westerly	Rhode Island.
The Bank of Bennington	Bennington	Vermont.
Heritage Family Federal Credit Union	Rutland	Vermont.
Passumpsic Savings Bank	St. Johnsbury	Vermont.

Federal Home Loan Bank of New York—District 2

Clifton Savings Bank	Clifton	New Jersey.
First National Bank of Elmer	Elmer	New Jersey.
Sussex Bank	Franklin	New Jersey.
Skylands Community Bank	Hackettstown	New Jersey.
Haddon Savings Bank	Haddon Heights	New Jersey.
First Hope Bank, A National Banking Association	Hope	New Jersey.
Gibraltar Bank	Mendham	New Jersey.
Magyar Bank	New Brunswick	New Jersey.
Lusitania Savings Bank, FSB	Newark	New Jersey.
New Community Federal Credit Union	Newark	New Jersey.
Franklin Bank	Pilesgrove	New Jersey.
RSI Bank	Rahway	New Jersey.
Roebling Bank	Roebling	New Jersey.
Parke Bank	Sewell	New Jersey.
Monroe Savings Bank, SLA	Williamstown	New Jersey.
Ponce De Leon Federal Bank	Bronx	New York.
Flatbush Federal Savings and Loan Association	Brooklyn	New York.
Manufacturers and Traders Trust Company	Buffalo	New York.
The Bank of Castile	Castile	New York.
Fairport Savings Bank	Fairport	New York.
Fulton Savings Bank	Fulton	New York.
Trustco Bank	Glenville	New York.
Highland Falls Federal Savings & Loan Association	Highland Falls	New York.
Bank of Holland	Holland	New York.
Steuben Trust Company	Hornell	New York.
New York Commercial Bank	Islandia	New York.
Ulster Savings Bank	Kingston	New York.
Astoria Federal Savings & Loan Association	Long Island City	New York.
Suffolk Federal Credit Union	Medford	New York.
First Federal Savings of Middletown	Middletown	New York.
Amalgamated Bank	New York	New York.
Habib American Bank	New York	New York.
Sterling National Bank	New York	New York.
United Orient Bank	New York	New York.
Pittsford Federal Credit Union	Pittsford	New York.
Bank of Richmondville	Richmondville	New York.
The Rome Savings Bank	Rome	New York.
Solvay Bank	Solvay	New York.
Northfield Bank	Staten Island	New York.
Walden Savings Bank	Walden	New York.
Champlain National Bank	Willsboro	New York.

Federal Home Loan Bank of Pittsburgh—District 3

Wilmington Savings Fund Society, FSB	Wilmington	Delaware.
C & G Savings Bank	Altoona	Pennsylvania.
Ambler Savings Bank	Ambler	Pennsylvania.
First Star Bank	Bethlehem	Pennsylvania.
First Federal Savings & Loan Association of Bucks County	Bristol	Pennsylvania.
Alliance Bank	Broomall	Pennsylvania.
Cresson Community Bank	Cresson	Pennsylvania.
Sharon Savings Bank	Darby	Pennsylvania.
ESB Bank	Ellwood City	Pennsylvania.
County Savings Bank	Essington	Pennsylvania.
Stonebridge Bank	Exton	Pennsylvania.
Fox Chase Bank	Hatboro	Pennsylvania.
Hatboro Federal Savings	Hatboro	Pennsylvania.
The Dime Bank	Honesdale	Pennsylvania.
Jersey Shore State Bank	Jersey Shore	Pennsylvania.
William Penn Bank, FSB	Levittown	Pennsylvania.
Third Federal Bank	Newtown	Pennsylvania.
Malvern Federal Savings Bank	Paoli	Pennsylvania.
First Savings Bank of Perkasie	Perkasie	Pennsylvania.
Asian Bank	Philadelphia	Pennsylvania.
Second Federal Savings & Loan Association of Philadelphia	Philadelphia	Pennsylvania.
St. Edmond's, FSB	Philadelphia	Pennsylvania.

Washington Savings Bank	Philadelphia	Pennsylvania.
Phoenixville Federal Bank & Trust	Phoenixville	Pennsylvania.
Progressive-Home Federal Savings & Loan Association	Pittsburgh	Pennsylvania.
QNB Bank	Quakertown	Pennsylvania.
Mercer County State Bank	Sandy Lake	Pennsylvania.
Penn Security Bank & Trust Company	Scranton	Pennsylvania.
Slovenian Savings & Loan Association of Canonsburg	Strabane	Pennsylvania.
First Century Bank, National Association	Bluefield	West Virginia.
Pioneer Community Bank, Inc.	Iaeger	West Virginia.
Centra Bank, Inc.	Morgantown	West Virginia.
Bank of Mount Hope, Inc.	Mount Hope	West Virginia.
Community Bank of Parkersburg	Parkersburg	West Virginia.
First Neighborhood Bank, Inc.	Spencer	West Virginia.
Pleasants County Bank	St. Marys	West Virginia.
Poca Valley Bank	Walton	West Virginia.
MCNB Bank and Trust Company	Welch	West Virginia.
WesBanco Bank, Inc.	Wheeling	West Virginia.
The First National Bank of Williamson	Williamson	West Virginia.

Federal Home Loan Bank of Atlanta—District 4

CCB Community Bank	Andalusia	Alabama.
United Bank	Atmore	Alabama.
AuburnBank	Auburn	Alabama.
First Financial Bank	Bessemer	Alabama.
Alamerica Bank	Birmingham	Alabama.
Cullman Savings Bank	Cullman	Alabama.
The Citizens Bank	Enterprise	Alabama.
Alabama Teachers Credit Union	Gadsden	Alabama.
Merchants Bank	Jackson	Alabama.
Farmers and Merchants Bank	Lafayette	Alabama.
Peachtree Bank	Maplesville	Alabama.
Bank Trust	Mobile	Alabama.
Community Spirit Bank	Red Bay	Alabama.
Valley State Bank	Russellville	Alabama.
Sweet Water State Bank	Sweet Water	Alabama.
SouthFirst Bank	Sylacauga	Alabama.
The First National Bank of Talladega	Talladega	Alabama.
First Bank	Wadley	Alabama.
City First Bank of District of Columbia, N.A.	Washington	District of Columbia.
Mackinac Savings Bank, FSB	Boynton Beach	Florida.
First Bank	Clewiston	Florida.
First National Bank of Crestview	Crest View	Florida.
Regent Bank	Davie	Florida.
Landmark Bank, N.A	Fort Lauderdale	Florida.
First City Bank of Florida	Fort Walton Beach	Florida.
Desjardins Bank, National Association	Hallandale	Florida.
Publix Employees' Federal Credit Union	Lakeland	Florida.
First Federal Bank of Florida	Live Oak	Florida.
Helm Bank, USA	Miami	Florida.
Interamerican Bank, A FSB	Miami	Florida.
Terrabank, N.A	Miami	Florida.
TotalBank	Miami	Florida.
Tropical Financial Credit Union	Miami	Florida.
Friends Bank	New Smyrna Beach	Florida.
American National Bank	Oakland Park	Florida.
Pinnacle Bank	Orange City	Florida.
CNL Bank	Orlando	Florida.
Pen Air Federal Credit Union	Pensacola	Florida.
Heartland National Bank	Sebring	Florida.
Highlands Independent Bank	Sebring	Florida.
First Home Bank	Seminole	Florida.
Raymond James Bank, FSB	St. Petersburg	Florida.
Gulfstream Business Bank	Stuart	Florida.
Florida Commerce Credit Union	Tallahassee	Florida.
Bay Cities Bank	Tampa	Florida.
First Citrus Bank	Tampa	Florida.
Grow Financial Federal Credit Union	Tampa	Florida.
Florida Capital Bank, N.A	Tarpon Spring	Florida.
United Southern Bank	Umatilla	Florida.
Marine Bank and Trust	Vero Beach	Florida.
Wilcox County State Bank	Abbeville	Georgia.
Montgomery Bank & Trust	Ailey	Georgia.
Bank of Atlanta	Atlanta	Georgia.
Citizens Trust Bank	Atlanta	Georgia.
Georgia Banking Company	Atlanta	Georgia.

United Community Bank	Blairsville	Georgia.
Cherokee Bank, National Association	Canton	Georgia.
Bank of Chickamauga	Chickamauga	Georgia.
The Peoples Bank	Eatonton	Georgia.
The Farmers Bank	Forsyth	Georgia.
South Georgia Bank	Glennville	Georgia.
Delta Employees Credit Union	Hapeville	Georgia.
SunMark Community Bank	Hawkinsville	Georgia.
Community Bank of Pickens County	Jasper	Georgia.
Jasper Banking Company	Jasper	Georgia.
Northeast Georgia Bank	Lavonia	Georgia.
LGE Community Credit Union	Marietta	Georgia.
The Merchants And Citizens Bank	McRae	Georgia.
Southwest Georgia Bank	Moultrie	Georgia.
Family Bank	Pelham	Georgia.
The Citizens National Bank of Quitman	Quitman	Georgia.
Southern Bank	Sardis	Georgia.
Community Bank of The South	Smyrna	Georgia.
Quantum National Bank	Suwanee	Georgia.
First Bank of Georgia	Thomson	Georgia.
South Georgia Banking Company	Tifton	Georgia.
Citizens Bank & Trust	Trenton	Georgia.
Durden Banking Company, Inc	Twin City	Georgia.
Robins Federal Credit Union	Warner Robins	Georgia.
Farmers and Merchants Bank	Washington	Georgia.
Bay-Vanguard, FSB	Baltimore	Maryland.
Hull Federal Savings Bank	Baltimore	Maryland.
Kopernik Federal Bank	Baltimore	Maryland.
Liberty Federal Savings & Loan Association	Baltimore	Maryland.
Slavie Federal Savings Bank	Baltimore	Maryland.
State Employees Credit Union of Maryland	Baltimore	Maryland.
Vigilant Federal Savings Bank	Baltimore	Maryland.
EagleBank	Bethesda	Maryland.
TMB Federal Credit Union	Cabin John	Maryland.
Cecil Bank	Elkton	Maryland.
Lafayette Federal Credit Union	Kensington	Maryland.
FedChoice Federal Credit Union	Lanham	Maryland.
First United Bank & Trust	Oakland	Maryland.
North Arundel Savings Bank, FSB	Pasadena	Maryland.
Provident State Bank, Inc	Preston	Maryland.
The National Bank of Rising Sun	Rising Sun	Maryland.
Bank of Stanly	Albemarle	North Carolina.
Home Savings Bank of Albemarle, SSB	Albemarle	North Carolina.
Randolph Bank & Trust Company	Asheboro	North Carolina.
Mechanics and Farmers Bank	Durham	North Carolina.
Macon Bank, Inc	Franklin	North Carolina.
Farmers & Merchants Bank	Granite Quarry	North Carolina.
Carolina Bank	Greensboro	North Carolina.
Hertford Savings Bank, SSB	Hertford	North Carolina.
The Little Bank	Kinston	North Carolina.
Mount Gilead Savings & Loan Association	Mount Gilead	North Carolina.
CapStone Bank	Raleigh	North Carolina.
Paragon Commercial Bank	Raleigh	North Carolina.
State Employees' Credit Union	Raleigh	North Carolina.
Taylorsville Savings Bank, SSB	Taylorsville	North Carolina.
Anson Bank & Trust Company	Wadesboro	North Carolina.
Waccamaw Bank	Whiteville	North Carolina.
Cornerstone Bank	Wilson	North Carolina.
Home Federal Savings & Loan Association	Bamberg	South Carolina.
First Reliance Bank	Florence	South Carolina.
Bank of Greeleyville	Greeleyville	South Carolina.
The County Bank	Greenwood	South Carolina.
Citizens Bank & Loan Association	Greer	South Carolina.
Greer State Bank	Greer	South Carolina.
First National Bank of South Carolina	Holly Hill	South Carolina.
Kingstree Federal Savings & Loan Association	Kingstree	South Carolina.
The Bank of Clarendon	Manning	South Carolina.
Southcoast Community Bank	Mount Pleasant	South Carolina.
Anderson Brothers Bank	Mullins	South Carolina.
Heritage Trust Federal Credit Union	North Charles	South Carolina.
Pickens Savings & Loan Association, FA	Pickens	South Carolina.
GrandSouth Bank	Simpsonville	South Carolina.
Bank of Travelers Rest	Travelers Rest	South Carolina.
First Federal of South Carolina, FSB	Walterboro	South Carolina.
E*Trade Bank	Arlington	Virginia.
The Blue Grass Valley Bank	Blue Grass	Virginia.

The Bank of Southside Virginia	Carson	Virginia.
Access National Bank	Chantilly	Virginia.
Bank of Hampton Roads	Chesapeake	Virginia.
Apple Federal Credit Union	Fairfax	Virginia.
Bank of The James	Lynchburg	Virginia.
Lee Bank & Trust Company	Pennington Gap	Virginia.
First Sentinel Bank	Richlands	Virginia.
First Bank	Strasburg	Virginia.
Navy Federal Credit Union	Vienna	Virginia.
Farmers Bank	Windsor	Virginia.

Federal Home Loan Bank of Cincinnati—District 5

Town & Country Bank and Trust Company	Bardstown	Kentucky.
Wilson & Muir Bank & Trust	Bardstown	Kentucky.
Bedford Loan & Deposit Bank	Bedford	Kentucky.
Meade County Bank	Brandenburg	Kentucky.
Band of Cadiz & Trust Company	Cadiz	Kentucky.
Bank of Columbia	Columbia	Kentucky.
Bank of Ohio County	Dundee	Kentucky.
Kentucky Neighborhood Bank	Elizabethtown	Kentucky.
Peoples Bank of Kentucky, Inc	Flemingsburg	Kentucky.
The Farmers Bank	Hardinsburg	Kentucky.
Hancock Bank & Trust Company	Hawesville	Kentucky.
Peoples Bank & Trust of Hazard	Hazard	Kentucky.
Heritage Bank	Hopkinsville	Kentucky.
Planters Bank, Inc	Hopkinsville	Kentucky.
Bank of Jamestown	Jamestown	Kentucky.
The Bank of Oldham County, Inc	La Grange	Kentucky.
Leitchfield Deposit Bank & Trust	Leitchfield	Kentucky.
Central Bank & Trust Company	Lexington	Kentucky.
Commonwealth Bank & Trust Company	Louisville	Kentucky.
L & N Federal Credit Union	Louisville	Kentucky.
Farmers Bank and Trust Company	Marion	Kentucky.
Monticello Bankshares, Inc	Monticello	Kentucky.
South Central Bank	Owensboro	Kentucky.
Blue Grass Federal Savings & Loan Association	Paris	Kentucky.
First Commonwealth Bank of Prestonsburg	Prestonsburg	Kentucky.
Salt Lick Deposit Bank	Salt Lick	Kentucky.
First & Farmers National Bank, Inc	Somerset	Kentucky.
Belpre Savings Bank	Belpre	Ohio.
Bethel Building & Loan Company	Bethel	Ohio.
Equitable Savings & Loan Company	Cadiz	Ohio.
First Federal Savings and Loan Association	Centerburg	Ohio.
Cinfed Federal Credit Union	Cincinnati	Ohio.
Eagle Savings Bank	Cincinnati	Ohio.
Guardian Savings Bank, FSB	Cincinnati	Ohio.
Mt. Washington Savings & Loan	Cincinnati	Ohio.
U.S. Bank, National Association	Cincinnati	Ohio.
Union Savings Bank	Cincinnati	Ohio.
First Community Bank	Columbus	Ohio.
Conneaut Savings Bank	Conneaut	Ohio.
The Corn City State Bank	Deshler	Ohio.
CF Bank	Fairlawn	Ohio.
The Fort Jennings State Bank	Fort Jennings	Ohio.
Galion Building and Loan Bank	Galion	Ohio.
The Home Bank & Loan Company	Greenfield	Ohio.
Greenville National Bank	Greenville	Ohio.
Hamler State Bank	Hamler	Ohio.
First Federal Savings & Loan Association	Lorain	Ohio.
The Fahey Banking Company	Marion	Ohio.
Sun Federal Credit Union	Maumee	Ohio.
The Vinton County N.B. of McArthur	McArthur	Ohio.
The Citizens N.B. of McConnelsville	McConnelsville	Ohio.
The American Savings Bank	Middletown	Ohio.
Geauga Savings Bank	Newbury	Ohio.
First National Bank	Orrville	Ohio.
The Republic Banking Company	Republic	Ohio.
Ripley Federal Savings Bank	Ripley	Ohio.
Mutual Federal Savings Bank	Sidney	Ohio.
Strasburg Savings Bank	Strasburg	Ohio.
The Peoples Savings Bank	Urbana	Ohio.
First Federal Savings & Loan Association of Van Wert	Van Wert	Ohio.
The Peoples Savings & Loan Company	West Liberty	Ohio.
The Union Banking Company	West Mansfield	Ohio.
Farmers State Bank	West Salem	Ohio.

Dollar Bank, FSB	Pittsburgh	Pennsylvania.
The Citizens NB of Athens	Athens	Tennessee.
Brighton Bank	Brighton	Tennessee.
Community First Bank & Trust	Columbia	Tennessee.
First Farmers and Merchants Bank	Columbia	Tennessee.
Bank of Putnam County	Cookeville	Tennessee.
Highland Federal Savings & Loan Association	Crossville	Tennessee.
First Federal Bank	Dickson	Tennessee.
Carter County Bank	Elizabethton	Tennessee.
Security Federal Bank	Elizabethton	Tennessee.
Tennessee State Bank	Gatlinburg	Tennessee.
GreenBank	Greeneville	Tennessee.
Bank of Halls	Halls	Tennessee.
Commercial Bank	Harrogate	Tennessee.
Carroll Bank & Trust	Huntingdon	Tennessee.
Union Bank	Jamestown	Tennessee.
Bank of Tennessee	Kingsport	Tennessee.
First Bank	Lexington	Tennessee.
Peoples Bank of East Tennessee	Madisonville	Tennessee.
First National Bank of Manchester	Manchester	Tennessee.
The Coffee County Bank	Manchester	Tennessee.
Memphis Area Teachers' Credit Union	Memphis	Tennessee.
Johnson County Bank	Mountain City	Tennessee.
National Bank of Tennessee	Newport	Tennessee.
The Farmers Bank	Portland	Tennessee.
Central Bank	Savannah	Tennessee.
Home Banking Company	Selmer	Tennessee.
First Community Bank of Bedford County	Shelbyville	Tennessee.
Farmers & Merchants Bank	Trezevant	Tennessee.
American City Bank	Tullahoma	Tennessee.
Reelfoot Bank	Union City	Tennessee.

Federal Home Loan Bank of Indianapolis—District 6

Bedford FSB	Bedford	Indiana.
The Franklin County NB of Brookville	Brookville	Indiana.
First Savings Bank, FSB	Clarksville	Indiana.
First National Bank	Cloverdale	Indiana.
Irwin Union Bank	Columbus	Indiana.
United Fidelity Bank	Evansville	Indiana.
Fowler State Bank	Fowler	Indiana.
Freedom Bank	Huntingburg	Indiana.
First, FSB	Huntington	Indiana.
Finance Center Federal Credit Union	Indianapolis	Indiana.
The Campbell and Fetter Bank	Kendallville	Indiana.
Lafayette Savings Bank, FSB	Lafayette	Indiana.
United Community Bank	Lawrenceburg	Indiana.
River Valley Financial Bank	Madison	Indiana.
MarkleBank	Markle	Indiana.
First State Bank of Middlebury	Middlebury	Indiana.
Peoples Savings & Loan Association of Monticello Indiana	Monticello	Indiana.
Citizens Financial Bank	Munster	Indiana.
Your Community Bank	New Albany	Indiana.
Ameriana Bank & Trust of Indiana	New Castle	Indiana.
The New Washington State Bank	New Washington	Indiana.
American Trust, FSB	Peru	Indiana.
Spencer County Bank	Santa Claus	Indiana.
Jackson County Bank of Seymour	Seymour	Indiana.
SCB Bank	Shelbyville	Indiana.
Terre Haute Savings Bank	Terre Haute	Indiana.
Homestead Savings Bank	Albion	Michigan.
Michigan Commerce Bank	Ann Arbor	Michigan.
Signature Bank—Bad Axe	Bad Axe	Michigan.
Lake Osceola State Bank	Baldwin	Michigan.
Central State Bank	Beulah	Michigan.
Charlevoix State Bank	Charlevoix	Michigan.
Eastern Michigan Bank	Croswell	Michigan.
Dearborn, FSB	Dearborn	Michigan.
State Bank of Ewen	Ewen	Michigan.
Option 1 Credit Union	Grand Rapids	Michigan.
PAC Federal Credit Union	Hamtramck	Michigan.
Capitol National Bank	Lansing	Michigan.
State Savings Bank of Manistique	Manistique	Michigan.
Mason State Bank	Mason	Michigan.
Firstbank	Mount Pleasant	Michigan.
The First National Bank of Norway	Norway	Michigan.

Community Financial Credit Union	Plymouth	Michigan.
Team One Credit Union	Saginaw	Michigan.
West Shore Bank	Scottville	Michigan.
Sidney State Bank	Sidney	Michigan.
Sterling Bank & Trust	Southfield	Michigan.
United Bank & Trust of Tecumseh	Tecumseh	Michigan.
Flagstar Bank, FSB	Troy	Michigan.
Firstbank-West Branch	West Branch	Michigan.
Sun Federal Credit Union	Maumee	Ohio.

Federal Home Loan Bank of Chicago—District 7

Oxford Bank & Trust	Oak Brook	Illinois.
Andalusia Community Bank	Andalusia	Illinois.
Heartland Bank and Trust Company	Bloomington	Illinois.
Peoples Bank of Kankakee County	Bourbonnais	Illinois.
Bridgeview Bank Group	Bridgeview	Illinois.
United Trust Bank	Bridgeview	Illinois.
First American Bank	Elk Grove Village	Illinois.
United Community Bank	Chatham	Illinois.
Amalgamated Bank of Chicago	Chicago	Illinois.
Austin Bank of Chicago	Chicago	Illinois.
Burling Bank	Chicago	Illinois.
The Foster bank	Chicago	Illinois.
First National Bank of Chillicothe	Chillicothe	Illinois.
State Bank of Countryside	Countryside	Illinois.
First Savings Bank	Danville	Illinois.
Midland States Bank	Effingham	Illinois.
Washington Savings Bank	Effingham	Illinois.
Union Savings Bank	Freeport	Illinois.
Central Bank Illinois	Geneseo	Illinois.
Bank Of Gibson City	Gibson City	Illinois.
NorthSide Community Bank	Gurnee	Illinois.
Parkway Bank and Trust Company	Harwood Heights	Illinois.
North Central Bank	Hennepin	Illinois.
State Bank Of Herscher	Herscher	Illinois.
Jacksonville Savings Bank	Jacksonville	Illinois.
The Farmers State Bank and Trust Company	Jacksonville	Illinois.
Bank of Kampsville	Kampsville	Illinois.
Kent Bank	Kent	Illinois.
First Federal Savings & Loan Association of Kewanee	Kewanee	Illinois.
Union Federal Savings & Loan Association	Kewanee	Illinois.
Midland Community Bank	Kincaid	Illinois.
Kinderhook State Bank	Kinderhook	Illinois.
La Salle State Bank	La Salle	Illinois.
Logan County Bank	Lincoln	Illinois.
The Bank of Marion	Marion	Illinois.
Twin Oaks Savings Bank	Marseilles	Illinois.
Citizens Community Bank	Mascoutah	Illinois.
First Federal Savings & Loan Association of Mattoon	Mattoon	Illinois.
Middletown State Bank	Middletown	Illinois.
Blackhawk Bank and Trust	Milan	Illinois.
First Farmers State Bank	Minier	Illinois.
First State Bank	Monticello	Illinois.
The Leaders Bank	Oak Brook	Illinois.
The First National Bank of Ogden	Ogden	Illinois.
The First National Bank of Okawville	Okawville	Illinois.
Federated Bank	Onarga	Illinois.
The First National Bank of Ottawa	Ottawa	Illinois.
The Edgar County Bank and Trust Company of Paris	Paris	Illinois.
The State Bank of Pearl City	Pearl City	Illinois.
First Federal Savings & Loan Association of Pekin	Pekin	Illinois.
Pekin National Bank	Pekin	Illinois.
Peru Federal Savings Bank	Peru	Illinois.
First National Bank in Pinckneyville	Pinckneyville	Illinois.
Murphy-Wall State Band & Trust Company	Pinckneyville	Illinois.
Village Bank and Trust	Arlington Heights	Illinois.
Bank of Quincy	Quincy	Illinois.
Mercantile Bank	Quincy	Illinois.
State Street Bank and Trust Company	Quincy	Illinois.
North County Savings Bank	Red Bud	Illinois.
I.H. Mississippi Valley Credit Union	Moline	Illinois.
State Bank of Saunemin	Saunemin	Illinois.
First Savanna Savings Bank	Savanna	Illinois.
Heritage Bank of Schaumburg	Schaumburg	Illinois.
Farmers & Traders State Bank	Shabbona	Illinois.

First State Bank Shannon-Polo	Shannon	Illinois.
The First National Bank of Sparta	Sparta	Illinois.
Illinois National Bank	Springfield	Illinois.
Security Bank, s.b	Springfield	Illinois.
Freedom Bank	Sterling	Illinois.
Sauk Valley Bank & Trust Company	Sterling	Illinois.
Stillman BanCorp, N.A	Rockford	Illinois.
Centrue Bank	Streator	Illinois.
American Midwest Bank	Sycamore	Illinois.
The National Bank & Trust Company of Sycamore	Sycamore	Illinois.
Citizens First State Bank of Walnut	Walnut	Illinois.
The Hill-Dodge Banking Company	Warsaw	Illinois.
State Bank of Waterloo	Waterloo	Illinois.
North Shore Trust and Savings	Waukegan	Illinois.
Waukegan Savings Bank	Waukegan	Illinois.
American Community Bank	Woodstock	Illinois.
Prospect Federal Savings Bank	Worth	Illinois.
Jackson County Bank	Black River Falls	Wisconsin.
Dairyland State Bank	Bruce	Wisconsin.
State Bank of Cross Plains	Cross Plains	Wisconsin.
Pioneer Credit Union	Green Bay	Wisconsin.
AM Community Credit Union	Kenosha	Wisconsin.
National Bank of Commerce	Superior	Wisconsin.
Tomahawk Community Bank, S.S.B	Tomahawk	Wisconsin.

Federal Home Loan Bank of Des Moines—District 8

United Missouri Insurance Company	Phoenix	Arizona.
Security State Bank	Algona	Iowa.
Farmers Savings Bank	Marshalltown	Iowa.
Farmers Trust and Savings Bank	Buffalo Center	Iowa.
Clear Lake Bank and Trust Company	Clear Lake	Iowa.
Gateway State Bank	Clinton	Iowa.
Peoples Trust & Savings Bank	Clive	Iowa.
C US Bank	Cresco	Iowa.
Denver Savings Bank	Denver	Iowa.
De Witt Bank & Trust Company	Dewitt	Iowa.
Premier Bank	Dubuque	Iowa.
Liberty Trust & Savings Bank	Durant	Iowa.
Farmer's Trust & Savings Bank	Earling	Iowa.
Hardin County Savings Bank	Eldora	Iowa.
Bank Plus	Estherville	Iowa.
NorthStar Bank	Estherville	Iowa.
Fort Madison Bank & Trust Company	Fort Madison	Iowa.
Security Savings Bank	Gowrie	Iowa.
Midstates Bank, N.A	Council Bluffs	Iowa.
Hills Bank and Trust Company	Hills	Iowa.
First State Bank	Ida Grove	Iowa.
Peoples Savings Bank	Indianola	Iowa.
Iowa Falls State Bank	Iowa Falls	Iowa.
Charter Bank	Johnston	Iowa.
Farmers Savings Bank	Keota	Iowa.
Kingsley State Bank	Kingsley	Iowa.
Kerndt Brothers Savings Bank	Lansing	Iowa.
Laurens State Bank	Laurens	Iowa.
State Bank of Ledyard	Ledyard	Iowa.
Libertyville Savings Bank	Fairfield	Iowa.
First State Bank	Lynnville	Iowa.
First National Bank of Manning	Manning	Iowa.
Valley Bank & Trust	Mapleton	Iowa.
Maquoketa State Bank	Maquoketa	Iowa.
Maynard Savings Bank	Maynard	Iowa.
Wayland State Bank	Mount Pleasant	Iowa.
Mount Vernon Bank & Trust Company	Mount Vernon	Iowa.
Community Bank	Muscatine	Iowa.
Community Bank of Oelwein	Oelwein	Iowa.
First National Bank Midwest	Oskaloosa	Iowa.
Guthrie County State Bank	Panora	Iowa.
Tri-Valley Bank	Randolph	Iowa.
Houghton State Bank	Red Oak	Iowa.
Peoples Bank	Rock Valley	Iowa.
Union State Bank	Rockwell City	Iowa.
Rolfe State Bank	Rolfe	Iowa.
Keokuk County State Bank	Sigourney	Iowa.
South Story Bank & Trust	Slater	Iowa.
Citizens Savings Bank	Spillville	Iowa.

St. Ansgar State Bank	St. Ansgar	Iowa.
Central State Bank	State Center	Iowa.
Victor State Bank	Victor	Iowa.
Federation Bank	Washington	Iowa.
Washington State Bank	Washington	Iowa.
The Watkins Savings Bank	Watkins	Iowa.
West Iowa Bank	West Bend	Iowa.
Fidelity Bank	West Des Moines	Iowa.
GuideOne Mutual Insurance Company	West Des Moines	Iowa.
State Savings Bank	West Des Moines	Iowa.
Bank Iowa	West Des Moines	Iowa.
Farmers State Bank	Yale	Iowa.
Sterling State Bank	Austin	Minnesota.
White Rock Bank	Cannon Falls	Minnesota.
Currie State Bank	Currie	Minnesota.
State Bank of Danvers	Danvers	Minnesota.
State Bank of DelaNo.	Delano	Minnesota.
Voyager Bank	Eden Prairie	Minnesota.
1st United Bank	Faribault	Minnesota.
Border State Bank	Greenbush	Minnesota.
Citizens State Bank of Hayfield	Hayfield	Minnesota.
Farmers State Bank of Hoffman	Hoffman	Minnesota.
Key Community Bank	Inver Grove Heights	Minnesota.
Kasson State Bank	Kasson	Minnesota.
Lake City Federal Bank	Lake City	Minnesota.
Lake Area Bank	Lindstrom	Minnesota.
Peoples State Bank of Madison Lake	Madison Lake	Minnesota.
Inter Savings Bank, FSB	Maple Grove	Minnesota.
TopLine Federal Credit Union	Maple Grove	Minnesota.
The Business Bank	Minnetonka	Minnesota.
First National Bank of Moose Lake	Moose Lake	Minnesota.
United Prairie Bank	Mountain Lake	Minnesota.
American Bank of the North	Nashwauk	Minnesota.
New Market Bank	New Market	Minnesota.
State Bank of New Prague	New Prague	Minnesota.
ProGrowth Bank	Nicollet	Minnesota.
Lakes State Bank	Pequot Lakes	Minnesota.
Bankwest	Rockford	Minnesota.
Citizens State Bank of Roseau	Roseau	Minnesota.
Bremer Bank, National Association	Saint Cloud	Minnesota.
St. James Federal Savings and Loan Association	Saint James	Minnesota.
Affinity Plus Federal Credit Union	Saint Paul	Minnesota.
BankVista	Sartell	Minnesota.
Village Bank	St. Francis	Minnesota.
Sentry Bank	St. Joseph	Minnesota.
Great Northern Bank	St. Michael	Minnesota.
The Nicollet County Bank of St. Peter	St. Peter	Minnesota.
Farmers State Bank of Trimont	Trimont	Minnesota.
The First National Bank of Walker	Walker	Minnesota.
Roundbank	Waseca	Minnesota.
Welcome State Bank	Welcome	Minnesota.
Ultima Bank Minnesota	Winger	Minnesota.
Flagship Bank Winsted	Winsted	Minnesota.
Citizens Bank—Amsterdam	Amsterdam	Missouri.
CBC Bank	Bowling Green	Missouri.
Community State Bank of Missouri	Bowling Green	Missouri.
First Community Bank of the Ozarks	Branson	Missouri.
Pony Express Bank	Braymer	Missouri.
Cass Commercial Bank	Bridgeton	Missouri.
The Citizens-Farmers Bank of Cole Camp	Cole Camp	Missouri.
Landmark Bank, National Association	Columbia	Missouri.
New Era Bank	Fredericktown	Missouri.
Bank Star One	Fulton	Missouri.
The Central Trust Bank	Jefferson City	Missouri.
Hawthorn Bank	Jefferson City	Missouri.
Mazuma Credit Union	Kansas City	Missouri.
Old American Insurance Company	Kansas City	Missouri.
Macon-Atlanta State Bank	Macon	Missouri.
Regional Missouri Bank	Marceline	Missouri.
Nodaway Valley Bank	Maryville	Missouri.
Independent Farmers Bank	Maysville	Missouri.
Heritage State Bank	Nevada	Missouri.
Bank of New Cambria	New Cambria	Missouri.
First Bank of the Lake	Osage Beach	Missouri.
Palmyra State Bank	Palmyra	Missouri.
Citizens Community Bank	Pilot Grove	Missouri.

Citizens Bank of Rogersville	Rogersville	Missouri.
Legacy Bank & Trust Company	Rogersville	Missouri.
Pulaski Bank	Saint Louis	Missouri.
Bank of Salem	Salem	Missouri.
The Merchants and Farmers Bank of Salisbury	Salisbury	Missouri.
Excel Bank	Sedalia	Missouri.
People's Bank of Seneca	Seneca	Missouri.
Empire Bank	Springfield	Missouri.
Liberty Bank	Springfield	Missouri.
First Missouri Credit Union	St. Louis	Missouri.
First State Bank of St. Robert	St. Robert	Missouri.
Bank Star of the BootHeel	Steele	Missouri.
Community Bank of the Ozarks	Sunrise Beach	Missouri.
The Tipton Latham Bank, N.A	Tipton	Missouri.
Royal Banks of Missouri	St. Louis	Missouri.
Meramec Valley Bank	Valley Park	Missouri.
First Central Bank	Warrensburg	Missouri.
Bank of Franklin County	Washington	Missouri.
Bank of Washington	Washington	Missouri.
West Plains Savings & Loan Association	West Plains	Missouri.
First Community Credit Union	Jamestown	North Dakota.
The First and Farmers Bank	Portland	North Dakota.
The Bank of Tioga	Tioga	North Dakota.
First International Bank & Trust	Watford City	North Dakota.
Farmers State Bank	Marion	South Dakota.
Principal Mortgage Reinsurance Company	Burlington	Vermont.

Federal Home Loan Bank of Dallas—District 9

SOUTHBank, FSB	Huntsville	Alabama.
First National Bank of Crossett	Crossett	Arkansas.
Bank of Eureka Springs	Eureka Spring	Arkansas.
The First National Bank of Fort Smith	Fort Smith	Arkansas.
Bank of Gravett	Gravett	Arkansas.
Heber Springs State Bank	Heber Springs	Arkansas.
First National Bank	Hot Springs	Arkansas.
Hot Springs Bank & Trust Company	Hot Springs	Arkansas.
Bank of Lake Village	Lake Village	Arkansas.
Bank of the Ozarks	Little Rock	Arkansas.
Capital Bank	Little Rock	Arkansas.
First State Bank	Lonoke	Arkansas.
Malvern National Bank	Malvern	Arkansas.
Union Bank of Mena	Mena	Arkansas.
Bank of Salem	Salem	Arkansas.
First Security Bank	Searcy	Arkansas.
Simmons First Bank of Searcy	Searcy	Arkansas.
Citizens Bank & Trust Company	Van Buren	Arkansas.
First Community Bank of Crawford	Van Buren	Arkansas.
Evolve Bank & Trust	West Memphis	Arkansas.
Fidelity National Bank	West Memphis	Arkansas.
Fidelity Bank	Baton Rouge	Louisiana.
Kaplan State Bank	Kaplan	Louisiana.
Sabine State B&T Company	Many	Louisiana.
State-Investors Bank	Metairie	Louisiana.
Exchange Bank & Trust Company	Natchitoches	Louisiana.
Liberty Bank and Trust Company	New Orleans	Louisiana.
Home Federal Bank	Shreveport	Louisiana.
Sicily Island State Bank	Sicily Island	Louisiana.
St. Martin Bank & Trust Company	St. Martinville	Louisiana.
Concordia Bank & Trust Company	Vidalia	Louisiana.
Evangeline Bank & Trust	Ville Platte	Louisiana.
Citizens Bank & Trust Company	Vivian	Louisiana.
Progressive Bank	Winnsboro	Louisiana.
BankPlus	Belzoni	Mississippi.
First Southern Bank	Columbia	Mississippi.
Commercial Bank	Dekalb	Mississippi.
Community Bank of Mississippi	Forest	Mississippi.
Bank of Jones County	Laurel	Mississippi.
Century Bank	Lucedale	Mississippi.
Great Southern National Bank	Meridian	Mississippi.
Newton County Bank	Newton	Mississippi.
The First National Bank of Oxford	Oxford	Mississippi.
Citizens Bank	Philadelphia	Mississippi.
Renasant Bank	Tupelo	Mississippi.
New Mexico Bank & Trust	Albuquerque	New Mexico.
The Carlsbad National Bank	Carlsbad	New Mexico.

Western Bank	Lordsburg	New Mexico.
Pioneer Bank	Roswell	New Mexico.
Community Bank	Santa Fe	New Mexico.
The First National Bank of Santa Fe	Santa Fe	New Mexico.
Centinel Bank of Taos	Taos	New Mexico.
United Funeral Benefit Life Insurance Company	Oklahoma City	Oklahoma.
Texas Champion Bank	Alice	Texas.
Amarillo National Bank	Amarillo	Texas.
First National Bank of Bellville	Bellville	Texas.
International Bank of Commerce	Brownsville	Texas.
Western Bank	Coahoma	Texas.
American Bank, National Association	Corpus Christi	Texas.
ValueBank Texas	Corpus Christi	Texas.
Equity Bank, SSB	Dallas	Texas.
Park Cities Bank	Dallas	Texas.
State Bank and Trust Company	Dallas	Texas.
The Bank & Trust, SSB	Del Rio	Texas.
First National Bank	Edinburg	Texas.
Bank of the West	El Paso	Texas.
Capital Bank, SSB	El Paso	Texas.
First National Bank of Fabens	Fabens	Texas.
Texas Regional Bank	Harlingen	Texas.
Woodhaven National Bank	Fort Worth	Texas.
United Central Bank	Garland	Texas.
Texas Bank	Henderson	Texas.
First National Bank of Hereford	Hereford	Texas.
Amegy Bank National Association	Houston	Texas.
New Era Life Insurance Company	Houston	Texas.
Omnibank, National Association	Houston	Texas.
The First National Bank of Hughes Springs	Hughes Spring	Texas.
First National Bank of Huntsville	Huntsville	Texas.
International Bank of Commerce	Laredo	Texas.
Security State Bank	Littlefield	Texas.
First State Bank of Livingston	Livingston	Texas.
First-Lockhart National Bank	Lockhart	Texas.
Community Bank	Longview	Texas.
Texas Star Bank, SSB	Lott	Texas.
City Bank	Lubbock	Texas.
Border Capital Bank, National Association	McAllen	Texas.
Rio Bank	McAllen	Texas.
First National Bank of McGregor	McGregor	Texas.
Independent Bank	McKinney	Texas.
Citizens State Bank	Miles	Texas.
Oglesby State Bank	Oglesby	Texas.
Crockett National Bank	Ozona	Texas.
First State Bank	Paint Rock	Texas.
Interstate Bank, SSB	Perryton	Texas.
Cypress Bank, FSB	Pittsburg	Texas.
ViewPoint Bank	Plano	Texas.
First National Bank in Quanah	Quanah	Texas.
Benchmark Bank	Quinlan	Texas.
Bank Texas, N.A.	Quitman	Texas.
Peoples State Bank	Rocksprings	Texas.
Texas State Bank	San Angelo	Texas.
San Antonio Federal Credit Union	San Antonio	Texas.
The Frost National Bank	San Antonio	Texas.
American Bank of Texas	Sherman	Texas.
First National Bank of Sonora	Sonora	Texas.
Commercial National Bank of Texarkana	Texarkana	Texas.
Southside Bank	Tyler	Texas.
First Victoria National Bank	Victoria	Texas.
American Bank, National Association	Waco	Texas.
Union Square Federal Credit Union	Wichita Falls	Texas.
International Bank of Commerce	Zapata	Texas.

Federal Home Loan Bank of Topeka—District 10

Canon National Bank	Canon City	Colorado.
Ent Federal Credit Union	Colorado Springs	Colorado.
The Citizens State Bank of Cortez	Cortez	Colorado.
Guaranty Bank and Trust Company	Denver	Colorado.
Public Service Employees Credit Union	Denver	Colorado.
Condon Bank and Trust	Coffeyville	Kansas.
Community State Bank	Coffeyville	Kansas.
Conway Bank, NA	Conway Spring	Kansas.
The Liberty Savings Association, FSA	Fort Scott	Kansas.

The City State Bank	Fort Scott	Kansas.
Citizens State Bank	Grainfield	Kansas.
First National Bank	Independence	Kansas.
Kansas State Bank of Manhattan	Manhattan	Kansas.
Stockgrowers State Bank	Maple Hill	Kansas.
The Marion National Bank	Marion	Kansas.
The Citizens State Bank	Marysville	Kansas.
Farmers and Merchants Bank of Mound City Kansas	Mound City	Kansas.
Montezuma State Bank	Montezuma	Kansas.
The Kansas State Bank	Overbrook	Kansas.
Alterra Bank	Overland Park	Kansas.
Bank of Palmer	Palmer	Kansas.
Farmers State Bank	Phillipsburg	Kansas.
First National Bank in Pratt	Pratt	Kansas.
Prescott State Bank	Prescott	Kansas.
Astra Bank	Scandia	Kansas.
The First National Bank of Scott City	Scott City	Kansas.
Centera Bank	Sublette	Kansas.
First Federal Savings & Loan Association of Wakeeney	Wakeeney	Kansas.
Kaw Valley State Bank & Trust Company	Wamego	Kansas.
The First National Bank of Wamego	Wamego	Kansas.
Farmers State Bank	Westmoreland	Kansas.
Fidelity Bank	Wichita	Kansas.
The First National Bank of Bancroft	Bancroft	Nebraska.
First Bank & Trust of Fullerton	Fullerton	Nebraska.
Geneva State Bank	Geneva	Nebraska.
Equitable Bank	Grand Island	Nebraska.
Home Federal Savings & Loan Association of Grand Island	Grand Island	Nebraska.
The Hershey State Bank	Hershey	Nebraska.
Platte Valley State Bank & Trust	Kearney	Nebraska.
Bank of Keystone	Keystone	Nebraska.
Home Federal Savings & Loan Association of Nebraska	Lexington	Nebraska.
Lincoln Federal Savings Bank	Lincoln	Nebraska.
First National Bank Northeast	Lyons	Nebraska.
Frontier Bank	Madison	Nebraska.
Madison County Bank	Madison	Nebraska.
Farmers & Merchants Bank	Milford	Nebraska.
Corn Growers State Bank	Murdock	Nebraska.
Murray State Bank	Murray	Nebraska.
Bank of Newman Grove	Newman Grove	Nebraska.
BankFirst	Norfolk	Nebraska.
Elkhorn Valley Bank & Trust	Norfolk	Nebraska.
First National Bank	North Platte	Nebraska.
Nebraskaland National Bank	North Platte	Nebraska.
Pender State Bank	Pender	Nebraska.
Midwest Bank, NA	Pierce	Nebraska.
Town & Country Bank	Ravenna	Nebraska.
First State Bank	Scottsbluff	Nebraska.
Sidney Federal Savings & Loan Association	Sidney	Nebraska.
Springfield State Bank	Springfield	Nebraska.
Bank of Stapleton	Stapleton	Nebraska.
Tri Valley Bank	Talmage	Nebraska.
Tecumseh Federal Bank	Tecumseh	Nebraska.
First Bank of Utica	Utica	Nebraska.
Oak Creek Valley Bank	Valparaiso	Nebraska.
Farmers State Bank	Wallace	Nebraska.
Commercial State Bank	Wausa	Nebraska.
Citizens State Bank	Wisner	Nebraska.
Cornerstone Bank	York	Nebraska.
66 Federal Credit Union	Bartlesville	Oklahoma.
AVB Bank	Broken Arrow	Oklahoma.
Cleo State Bank	Cleo Springs	Oklahoma.
Grand Savings Bank	Grove	Oklahoma.
Grand Bank	Grove	Oklahoma.
Bank of Hydro	Hydro	Oklahoma.
First National Bank of Muskogee	Muskogee	Oklahoma.
The Citizens State Bank	Okemah	Oklahoma.
First Enterprise Bank	Oklahoma City	Oklahoma.
InterBank	Oklahoma City	Oklahoma.
Bank of Cordell	Rocky	Oklahoma.
Lakeside Bank of Salina	Salina	Oklahoma.
The Shattuck National Bank	Shattuck	Oklahoma.
Anchor D Bank	Texhoma	Oklahoma.
The Bank of the West	Thomas	Oklahoma.
Energy One Federal Credit Union	Tulsa	Oklahoma.
Armstrong Bank	Vian	Oklahoma.

First Bank & Trust Company	Wagoner	Oklahoma.
Bank of Commerce	Yukon	Oklahoma.

Federal Home Loan Bank of San Francisco—District 11

Western Alliance Bank	Phoenix	Arizona.
Arizona Federal Credit Union	Phoenix	Arizona.
Canyon Community Bank, NA	Tucson	Arizona.
Eastern International Bank	Los Angeles	California.
New Omni Bank, N.A.	Alhambra	California.
Premier Commercial Bank, NA	Anaheim	California.
Kern Schools Federal Credit Union	Bakersfield	California.
Chino Commercial Bank, N.A.	Chino	California.
Bank of Marin	Corte Madera	California.
Coast Central Credit Union	Eureka	California.
Fresno County Federal Credit Union	Fresno	California.
South Western Federal Credit Union	La Habra	California.
Farmers & Merchants Bank of Central California	Lodi	California.
American Business Bank	Los Angeles	California.
BBCN Bank	Los Angeles	California.
State Bank of India (California)	Los Angeles	California.
Wilshire State Bank	Los Angeles	California.
Kinecta Federal Credit Union	Manhattan Beach	California.
SAFE Credit Union	North Highlands	California.
United Labor Bank, FSB	Oakland	California.
Wescom Central Credit Union	Pasadena	California.
1st United Services Credit Union	Pleasanton	California.
Valley Community Bank	Pleasanton	California.
Redding Bank of Commerce	Redding	California.
Point Loma Credit Union	San Diego	California.
San Diego County Credit Union	San Diego	California.
San Diego Metropolitan Credit Union	San Diego	California.
Torrey Pines Bank	San Diego	California.
University & State Employees Credit Union	San Diego	California.
California Bank & Trust	San Diego	California.
Chevron Federal Credit Union	Oakland	California.
Northeast Community Federal Credit Union	San Francisco	California.
Alliance Credit Union	San Jose	California.
Coast National Bank	San Luis Obispo	California.
American Security Bank	Santa Ana	California.
Bridge Bank, N.A.	Santa Clara	California.
Silicon Valley Bank	Santa Clara	California.
Community Bank of Santa Maria	Santa Maria	California.
Pacific Western Bank	Santa Monica	California.
Luther Burbank Savings	Santa Rosa	California.
Sunwest Bank	Tustin	California.
County Commerce Bank	Ventura	California.
Bank of Feather River	Yuba City	California.
Bank of Manhattan, N.A.	El Segundo	California.
Bank of Santa Clarita	Santa Clarita	California.
California Bank of Commerce	Lafayette	California.
California Republic Bank	Newport Beach	California.
Bank of Las Vegas	Las Vegas	Nevada.
Town & Country Bank	Las Vegas	Nevada.
Bank of George	Las Vegas	Nevada.

Federal Home Loan Bank of Seattle—District 12

First National Bank Alaska	Anchorage	Alaska.
First Bank	Ketchikan	Alaska.
Aloha Pacific Federal Credit Union	Honolulu	Hawaii.
Territorial Savings Bank	Honolulu	Hawaii.
Home Federal Bank	Nampa	Idaho.
Rocky Mountain Bank	Billings	Montana.
Mountain West Bank, N.A.	Helena	Montana.
Valley Bank of Helena	Helena	Montana.
Three Rivers Bank of Montana	Kalispell	Montana.
First Bank of Montana	Lewistown	Montana.
American Bank	Livingston	Montana.
Bitterroot Valley Bank	Lolo	Montana.
Western Bank of Wolf Point	Wolf Point	Montana.
Western Security Bank	Kalispell	Montana.
Chetco Federal Credit Union	Harbor	Oregon.
West Coast Bank	Lake Oswego	Oregon.
PremierWest Bank	Medford	Oregon.
Rogue Federal Credit Union	Medford	Oregon.

First National Bank of Layton	Layton	Utah.
Capital Community Bank	Orem	Utah.
Zions First National Bank	Salt Lake City	Utah.
Anchor Bank	Aberdeen	Washington.
Bank of the Pacific	Aberdeen	Washington.
Whatcom Educational Credit Union	Bellingham	Washington.
Kitsap Credit Union	Bremerton	Washington.
Security State Bank	Centralia	Washington.
North Cascades National Bank	Chelan	Washington.
Wheatland Bank	Davenport	Washington.
Islanders Bank	Friday Harbor	Washington.
1st Security Bank of Washington	Lynnwood	Washington.
Heritage Bank	Olympia	Washington.
South Sound Bank	Olympia	Washington.
HomeStreet Bank	Seattle	Washington.
Sound Community Bank	Seattle	Washington.
Spokane Teachers Credit Union	Spokane	Washington.
Sound Banking Company	Tacoma	Washington.
TAPCO Credit Union	Tacoma	Washington.
Columbia Community Credit Union	Vancouver	Washington.
Banner Bank	Walla Walla	Washington.
Security First Bank	Cheyenne	Wyoming.
First National Bank of Wyoming	Laramie	Wyoming.
First Bank of Wyoming	Powell	Wyoming.
Cowboy State Bank	Ranchester	Wyoming.
Rawlins National Bank	Rawlins	Wyoming.
First State Bank	Wheatland	Wyoming.

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before March 27, 2012, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2010 fifth round review cycle. 12 CFR 1290.2(b)(2)(ii). In reviewing a member for community support compliance, FHFA will consider any public comments it has received concerning the member. 12 CFR 1290.2(d). To ensure consideration by FHFA, comments concerning the community support performance of members selected for the 2010 fifth round review cycle must be delivered to FHFA, either by hard-copy mail at the Federal Housing Finance Agency, Ninth Floor, Housing Mission and Goals (DHMG), 400 Seventh Street SW., Washington, DC 20024, or by electronic mail to *hmgcommunitysupportprogram@fhfa.gov* on or before the April 27, 2012 deadline for submission of Community Support Statements.

Dated: March 7, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

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BILLING CODE 8070–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Information (RFI) on Design of a Pilot Operational Study To Assess Alternative Blood Donor Deferral Criteria for Men Who Have Had Sex With Other Men (MSM)

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) is seeking to identify interest and obtain information relevant to the design of a pilot operational study (or studies) on alternative donor deferral criteria that would permit blood and plasma donations (subsequently termed ''blood donations'') by men who have had sex with other men (MSM).

Based upon documented higher levels of certain transfusion-transmissible infections (e.g. Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV)) in some groups of men who have had sex with men, all men with a history of this behavior since 1977 are currently deferred from donating blood. However, the increased effectiveness of donor testing for HIV, HBV, syphilis and other infectious agents has greatly enhanced blood safety. As a result, questions have been raised about the need to continue an indefinite deferral of all MSM and whether there could be blood donation by MSM who may not be at increased risk. In June 2010, HHS sought advice from its Advisory Committee for Blood Safety and Availability (ACBSA) on the issue of the current MSM deferral policy. The Advisory Committee noted that the existing policy is suboptimal, but recommended that the policy should be retained pending the completion of targeted research studies that might support a safe alternative policy.

HHS and the agencies responsible for blood safety are committed to efforts to maintain and enhance the safety of the nation's blood supply, taking into account all new and emerging scientific information. Consistent with the June 2010 recommendations of the ACBSA, HHS seeks to determine through appropriate studies whether blood safety can be maintained or enhanced under revised blood donor screening criteria that would permit donation by some MSM. This request for information (RFI) is being issued in recognition of the challenges of designing such studies.

This RFI seeks information from interested parties regarding the design, logistics and feasibility of a pilot operational study (or studies) to assess alternative blood donor eligibility criteria for MSM. Responses to this RFI will inform HHS on the design, logistics and feasibility of such a study, which, if feasible, could result in identifying potential pathways toward future alternate policies that will maintain or enhance the current very high levels of blood safety. The concept is to conduct a pilot operational study, in which MSM who meet specified criteria would

be permitted to donate blood, with additional safeguards in place to protect blood recipients during the course of the study. Data would be gathered to assess the effectiveness of the specified criteria to select low risk donors among MSM. Upon completing all data collection activities, there will be a transparent and evidence-based evaluation of current and possible future MSM blood donation policies.

This RFI is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of HHS. HHS does not intend to award a grant or contract to pay for the preparation of any information submitted or for the use of such information by HHS. Whereas all responses to this notice will be carefully considered, acknowledgment of receipt of responses will not be made, nor will respondents be notified of the evaluation by HHS of the information received. No basis for claims against HHS shall arise as a result of a response to this request for information or to the use of such information by HHS as either part of our evaluation process or in developing specifications for any subsequent announcement.

DATES: All responses must be received no later than 4 p.m. EDT on June 11, 2012 at the address listed below.

ADDRESSES: You may submit comments identified by docket ID number HHS–OPHS–2012–0003, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Enter the above docket ID number in the ''Enter Keyword or ID field and click on ''Search.'' On the next page, click the ''Submit a Comment'' action and follow the instructions.
- *Mail/Hand delivery/Courier* [For paper, disk, or CD–ROM submissions]: Richard Henry, M.L., M.P.H., Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Tower Building, Suite 250, Rockville, MD 20852.

Comments received, including any personal information, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: James Berger, Acting Director for Blood Safety and Availability, Office of the Assistant Secretary for Health, Office of the Secretary, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Tower Building, Suite 250, Rockville, MD 20852.

SUPPLEMENTARY INFORMATION:

General Blood Safety Strategy

Current high levels of safety of the U.S. blood supply are provided by five overlapping layers of protection. These include:

- First, potential donors are provided educational materials and also asked specific questions about their health, and about risk factors for certain transfusion-transmissible diseases (i.e., medical, behavioral and travel-related risks), as a basis for acceptance or deferral.
- Second, the donated blood is tested for evidence of transfusion transmissible infections by highly sensitive laboratory assays. These include tests for infections which can be acquired through high risk sexual behaviors including HIV, HBV, and/or syphilis.
- Third, blood establishments must keep a current list of individuals who have been deferred as donors in order to prevent future collection or use of their blood.
- Fourth, blood products are quarantined until the testing is completed and the donation records have been verified for suitability of the collections.
- Fifth, blood establishments must investigate any breaches of these safeguards, correct system deficiencies, and maintain records for FDA review.

Rationale for Current Deferral Policy for MSM

Deferral of potential donors prior to donation combined with highly sophisticated and sensitive laboratory testing of donated blood are among the multiple overlapping safeguards currently in place to protect the blood supply. Of particular concern for blood safety are infections known to be transmissible by blood transfusion, including HIV and HBV. Deferral of MSM from donation of blood is based on well-documented observations of a markedly higher prevalence [1] (current infection) and incidence [2] (newly acquired infection) of these transmissible agents among some MSM than in the non-MSM general population. Additionally, there is a theoretical concern that persons at increased risk for known sexually transmitted diseases might also be at increased risk to acquire sexually and blood transmitted infections that may emerge in the future and for which no donor screening tests exist.

The risk of infection from a blood transfusion is now extremely low (less than one in one million units transfused for HIV and less than one in 280,000 units transfused for HBV). These risks have diminished dramatically in the past three decades as a result of the overlapping safeguards. From recently published modeling studies, transfusion-transmitted infections, while rare, are now generally attributed to the interplay of three factors: (1) Failure of donor selection measures to accurately defer an at-risk donor, either by deficiencies in the donor screening process or failure of a donor to provide accurate answers; (2) donation by an infected individual during the ''window period'' when early infection cannot yet be detected by current testing; and (3) inadvertent release of a donated unit of blood (a) before all testing is known to be negative; (b) before other criteria affecting blood safety and quality are determined to have been met; or (c) despite a positive screening test or other finding of unsuitability (Quarantine Release Errors or QRE).

Reconsideration of MSM Deferral Policy

There have been advisory committee meetings [3] and a public workshop [4] over the past decade, which have reexamined the deferral policy, taking into account existing scientific evidence related to deferral of MSM from blood donation. In addition, there has been increased interest in changing this policy from some members of the U.S. Congress, the public and interested advocacy groups.

Most recently, in June 2010, the HHS ACBSA [5] heard presentations of currently available scientific data and recommended to the HHS Secretary that the current MSM deferral policy, while suboptimal, should be retained pending the completion of targeted research studies that might support a safe alternative policy. Based on these recommendations, the Assistant

[1] *http://www.cdc.gov/hiv/surveillance/resources/reports/2009report/index.htm.*

[2] Prejean J, Song R, Hernandez A, Ziebell R, Green T, Walker F, Lin LS, An Q, Mermin J, Lansky A, Hall HI; HIV Incidence Surveillance Group. Estimated HIV Incidence in the United States, 2006–2009. PLoS One. 2011;6(8):e17502. Epub 2011 Aug 3.

[3] Blood Products Advisory Committee held September 14, 2000 *http://www.fda.gov/ohrms/dockets/ac/cber00.htm#Blood%20Prducts.*

Advisory Committee on Blood Safety and Availability held June 10–11, 2010 *http://www.hhs.gov/ash/bloodsafety/advisorycommittee/recommendations/msm-deferral_qa_20110722-final.pdf.*

[4] FDA Workshop on Behavior-Based Donor Deferrals in the NAT Era held March 8, 2006 *http://www.fda.gov/downloads/BiologicsBloodVaccines/NewsEvents/WorkshopsMeetingsConferences/TranscriptsMinutes/UCM054430.pdf.*

[5] Advisory Committee on Blood Safety and Availability held June 10–11, 2010 *http://www.hhs.gov/ash/bloodsafety/advisorycommittee/recommendations/msm-deferral_qa_20110722-final.pdf.*

Secretary for Health charged relevant agencies to develop and carry out such studies, including a pilot operational study of revised deferral criteria for MSM.

A public workshop was conducted and three funded studies are in progress to help re-evaluate the MSM deferral policy:

(1) Workshop on Quarantine Release Errors (QREs):

FDA convened a workshop in September 2011 to better understand and find ways to prevent errors in quarantine management that could lead to inappropriate release of blood (QREs). While only a very low proportion of QREs present serious health threats, QREs continue to occur, both in community based and hospital based blood collection establishments. It was determined that human error during non-computerized operations frequently contributes to the QREs that occur. As a result of the workshop, AABB is establishing an industry-led task force to study the QRE issue, to identify best practices, and to propose additional interventions. In particular, application of human factor engineering will be brought to bear in a review of blood banking practices to better optimize the interface between human and automated steps as a way to improve process controls. The output of the task force will be used by government agencies to establish guidance on best practices in quarantine control of blood components.

(2) Study on the Epidemiology of Transfusion-Transmissible Infections in U.S. Blood Donors:

An analysis of data on the prevalence and incidence of certain major transfusion-transmissible infections (e.g. HIV, HBV, and Hepatitis C Virus (HCV)) obtained from routine donation testing of blood donors was initiated in 2011. This study will provide baseline estimates of the current risks of transfusion-transmitted viral infections in the U.S. blood supply. Additionally, the current risk factors (including heterosexual) reported by infected donors and their relative prevalence compared to other donors as controls will be determined, thus providing information as to which risk factor(s) should be targeted by optimized donor screening strategies. This study is supported by the National Heart, Lung, and Blood Institute (NHLBI) of the National Institutes of Health (NIH) and is being conducted as part of the second Retrovirus Epidemiology Donor Study (REDS–II). This study includes the American Red Cross, Blood Systems, Inc., and the New York Blood Center which together are responsible for collecting approximately 60 percent of the U.S. blood supply.

(3) Study on Evaluation of the current Blood Donation History Questionnaire (DHQ):

Several factors, including culture, social conditions, and language fluency, contribute to different interpretations of the questions that comprise the current blood donation screening questionnaire. A study to assess donor understanding and interpretation of the DHQ screening questions (cognitive evaluation) was conducted approximately ten years ago by the National Center for Health Statistics of the Centers for Disease Control and Prevention (NCHS, CDC). Because techniques for questionnaire evaluation have advanced considerably over the past decade, the HHS Office of the Assistant Secretary for Health funded NCHS, CDC to re-evaluate the DHQ, with particular emphasis on donor understanding of the behavioral risk questions intended to prevent transmissible infections. This study will help determine whether the existing MSM deferral questions are understood and properly interpreted by donors. It may also determine more effective ways to communicate with at-risk populations through donor questions.

(4) Study on the Attitudes and Behaviors of MSM Toward the Blood Donation Screening Process:

Blood donors must accurately assess their individual risk(s), and then self-defer from donation or disclose their risk(s) for the current screening process to effectively maintain blood safety. Failure to self-defer or disclose risk after a potential exposure to a transfusion-transmissible infection may result in the collection and release of an infectious blood donation, which may be associated with a false negative laboratory test during early infection (the ''window period''). For this reason, it is important to evaluate whether MSM with increased risk would reliably self-defer or disclose risks if permitted to donate under revised selection criteria. A study funded by the Food and Drug Administration (FDA) and being carried out by the NHLBI REDS–III program will assess attitudes and behaviors of MSM toward current and possible future blood donation policies. This study is specifically designed to examine whether MSM comply with the current deferral criteria and whether MSM would be likely to comply with potential different deferral criteria.

Information Requested

HHS is interested in obtaining information about the design, logistics and feasibility of a pilot operational study to assess alternative blood donor acceptance criteria for MSM. Specifically, HHS requests information from private and public sector stakeholders regarding potential pilot operational study designs, including innovative and cost effective approaches to evaluate alternative blood donor acceptance criteria for MSM.

Input is requested for the following:

(1) Candidate acceptance criteria for a pilot operational study that would permit blood donation by MSM. For example, MSM with one year or five years of abstinence from sex with other men, or other criteria, subject to study designs with additional safeguards.

(2) Possible study designs that would generate useful information regarding the safety of candidate acceptance criteria while maintaining current levels of blood safety during the pilot study. Possibilities might include but are not limited to the following:

(a) Pre-donation Donor Testing

In a pre-donation testing strategy, MSM who are presently deferred, but who would be eligible to donate during the pilot operational study under modified acceptance criteria would be screened for donation with the candidate modified criteria and have a blood sample drawn for standard donor screening,[6] and potentially, additional tests at their first session in a blood collection center. They would not be permitted to donate a unit of blood at that time. MSM donors who meet all other donor eligibility criteria, and have negative pre-donation test results, would be invited to return within a defined period, at which time standard donor screening and testing would be performed and blood for use in transfusion would then be collected.

A pre-donation testing strategy would focus on the prevalence of HIV and other transfusion-transmissible infections in the MSM population. Infected donors would be identified and deferred based on prescreening results. Quarantine release errors (QREs) would be avoided, because infectious units would not be drawn and entered into inventory.

Unanswered questions regarding a pre-donation testing option include: (1) the added costs of donor testing if provided by the collection center; (2) the added cost and complexity of

[6] Current tests include Antibody to HIV–1 and –2 (Anti-HIV–1, –2), HIV–1 RNA (HIV–1 NAT), Antibody to HCV (anti-HCV), HCV RNA (HCV NAT), Antibody to HTLV–I and –II (Anti-HTLV–I/II), Hepatitis B Surface Antigen (HBsAg), Antibody to Hepatitis B Core Antigen (Anti-HBc), West Nile Virus RNA (WNV NAT), Antibody to Trypanosoma cruzi (Chagas' disease), and a serologic test for syphilis.

tracking the results of pre-donation testing; (3) the period within which a potential MSM donor would need to return to complete an actual blood donation; (4) concern that pre-donation testing of only MSM could be seen as discriminatory; and (5) the residual impact on safety due to window period donations that would not be reduced by pre-testing.

(b) Post-Donation Testing

In a post-donation testing strategy, MSM who are presently deferred, but who would be eligible to donate during the pilot under modified deferral criteria would have a unit of blood drawn. This unit would be segregated from other units and placed in a separate quarantine. The donor would be asked to return for ''post-donation testing'' within a specified period following the donation that would exceed the ''window period'' for transfusion-transmissible infections but be within the expiration dating period of the unit of blood (i.e., within 14 to 42 days post-donation for red blood cells or from 14 days to within one year for plasma for transfusion). For donors who continue to meet acceptance criteria and have negative ''post-donation test'' results, the unit would be released for transfusion. Such collections would be most applicable to repeat plasma donations given the longer shelf life of frozen plasma, providing greater flexibility for the time of ''post-donation testing'' of the donor. Also, plasma for transfusion could be collected at the time of ''post-donation testing'' initiating a new quarantine for a new collection.

Placing units drawn from MSM donors in quarantine until qualifying ''post-donation testing'' results are obtained would address the issue of recent (i.e. ''incident'') infections. Infectious units would be entered into a quarantine portion of the blood bank inventory prior to the availability of screening test results. However, if more infectious units are drawn and placed in inventory, these units would be subject to quarantine release errors.

There could be the same or similar unanswered questions for the post-donation testing strategy as are outlined above under the pre-donation testing strategy. In addition, blood establishments would need to maintain stratified and potentially larger quarantine inventories and would incur the costs of discarding all units in quarantine for which a donor failed to return for ''post-donation testing.''

(c) Combined Pre-Donation and Post-Donation Testing

Under this scenario, an MSM donor seeking to donate under modified deferral criteria would be screened with a questionnaire and asked to give a pre-donation testing sample. Assuming the blood sample is negative for infectious markers, and the donor meets all other eligibility criteria, the donor would be invited to return within a defined period to donate a unit of blood. This unit would be placed in quarantine and the donor again would be asked to return, this time for post-donation testing also within a specified time period.

This strategy would provide the strictest control over any increase in risk to the blood supply. Both incident and prevalent infection concerns would be addressed. However, this scenario would require a potential donor meeting the candidate MSM acceptability criteria to make three appearances at a blood collection facility within specified time periods in order to have a donation released for transfusion. Blood establishments would face challenging logistic issues in conducting such a study concurrently with normal, highly standardized blood collection operations.

(3) Input is requested on the data that should be gathered and the criteria used to evaluate the results of the pilot operational study. For example, should MSM donors and non-MSM donors be asked to participate in surveys on their understanding of the donor screening questions, their specific sexual behaviors and their motivations to donate blood? Should the study outcome be based on observed markers of transfusion-transmitted infections in MSM donors compared with other donors? Should MSM donors with positive screening tests be interviewed to better understand their risk factors, their understanding of the donor questionnaire and their motivations to donate if they did not appropriately self-defer or disclose their risk?

Requested RFI Responses:

Please comment on each of the above scenarios, or propose additional pilot operational study designs for consideration. In your response, please address each of the following:

- Revised criteria that should be considered to permit blood donation by MSM
- Blood safety considerations and safety mitigations that should be considered
- Impact on blood establishment operations
- Staff training and staff perceptions
- Tracking of pre-donation and/or post-donation test results
- Inventory management
- Donor perceptions regarding the possible changes in deferral policy within the operational study scenarios (including both MSM and non-MSM donors)
- Public reaction, if any, and impact on blood drives
- Potential venues where the study could be conducted
- Study costs
- Willingness of blood organizations to participate in a pilot study
- Data elements that should be gathered during the study, including those that may be associated with future emerging infections
- Criteria for evaluation of the study results and conclusions
- Expected timeframe for each proposed study.

Dated: March 8, 2012.

Richard Henry,

Deputy Director, Blood Safety & Availability.

[FR Doc. 2012–6091 Filed 3–12–12; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Council on Alzheimer's Research, Care, and Services; Request for Nominations

AGENCY: Office of the Assistant Secretary for Planning and Evaluation; Department of Health and Human Services.

ACTION: Request for Nominations.

SUMMARY: HHS is soliciting nominations for a new, non-Federal member of the Advisory Council on Alzheimer's Research, Care, and Services to fill the position of ''representative of a state public health department.'' Nominations should include the nominee's contact information (current mailing address, email address, and telephone number) and current curriculum vitae or resume.

DATES: Submit nominations by email or USPS mail before COB on April 4, 2012.

ADDRESSES: Nominations should be sent to Helen Lamont at *helen.lamont@hhs.gov;* Helen Lamont, Ph.D., Office of the Assistant Secretary for Planning and Evaluation, Room 424E Humphrey Building, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Helen Lamont (202) 690–7996, *helen.lamont@hhs.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council on Alzheimer's Research, Care, and Services meets quarterly to discuss programs that impact people with Alzheimer's disease and related dementias and their caregivers. The Advisory Council makes recommendations about ways to reduce the financial impact of Alzheimer's disease and related dementias and to improve the health outcomes of people with these conditions. The Advisory Council provides feedback on the National Plan to Address Alzheimer's Disease. On an annual basis, the Advisory Council shall evaluate the implementation of the recommendations through an updated national plan.

The Advisory Council consists of designees from Federal agencies including the Centers for Disease Control and Prevention, Administration on Aging, Centers for Medicare and Medicaid Services, Indian Health Service, Office of the Director of the National Institutes of Health, National Science Foundation, Department of Veterans Affairs, Food and Drug Administration, Agency for Healthcare Research and Quality, and the Surgeon General. The Advisory Council also consists of 12 non-federal members selected by the Secretary who are Alzheimer's patient advocates (2), Alzheimer's caregivers (2), health care providers (2), representatives of State health departments (2), researchers with Alzheimer's-related expertise in basic, translational, clinical, or drug development science (2), and voluntary health association representatives (2). Members serve for overlapping 4 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. Members serve as Special Government Employees. This announcement is seeking nominations for a ''representative of a state public health department'' who is not a Federal employee.

Sherry Glied,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 2012–6083 Filed 3–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Request for Nominations of Candidates to Serve on the Advisory Committee on Immunization Practices (ACIP)

The CDC is soliciting nominations for membership on the ACIP. The ACIP consists of 15 experts in fields associated with immunization, who are selected by the Secretary of the U. S. Department of Health and Human Services to provide advice and guidance to the Secretary, the Assistant Secretary for Health, and the CDC on the control of vaccine-preventable diseases. The role of the ACIP is to provide advice that will lead to a reduction in the incidence of vaccine preventable diseases in the United States, and an increase in the safe use of vaccines and related biological products. The committee also establishes, reviews, and as appropriate, revises the list of vaccines for administration to children eligible to receive vaccines through the Vaccines for Children (VFC) Program.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the field of immunization practices; multi-disciplinary expertise in public health; expertise in the use of vaccines and immunologic agents in both clinical and preventive medicine; knowledge of vaccine development, evaluation, and vaccine delivery; or knowledge about consumer perspectives and/or social and community aspects of immunization programs. Federal employees will not be considered for membership. Members may be invited to serve for four-year terms. The next cycle of selection of candidates will begin in the fall of 2012, for selection of potential nominees to replace members whose terms will end on June 30, 2013.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of ACIP objectives (*http://www.cdc.gov/vaccines/recs/acip*). The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented and the committee's function. Consideration is given to a broad representation of geographic areas within the U.S., as well as gender, race, ethnicity, and persons with disabilities. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government.

Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, fax number, mailing address, email address)
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by HHS.

Nominations should be submitted (postmarked or received) by November 16, 2012 (for consideration for term beginning July 2013.) All files must be submitted electronically as email attachments to:

- Ms. Stephanie Thomas, c/o ACIP Secretariat, *SThomas5@cdc.gov.*
- Nominations may be submitted by the candidate or by the person/organization recommending the candidate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 6, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–6071 Filed 3–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee, Centers for Disease Control and Prevention: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Clinical Laboratory Improvement Advisory Committee, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), has been renewed for a 2-year period through February 19, 2014.

For information, contact May Chu, Ph.D., Designated Federal Officer, Clinical Laboratory Improvement

Advisory Committee, 1600 Clifton Road NE., Mailstop E–94, Atlanta, Georgia 30333, telephone 404/498–6400 or fax 404/498–6410.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 6, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–6080 Filed 3–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Epidemiology, Prevention and Treatment of Influenza and Other Respiratory Infections in Ghana, Studies at the Animal-Human Interface of Influenza and Other Zoonotic Diseases in Vietnam, The Incidence of Community Associated Influenza and Other Respiratory Infections in the United States, and Epidemiology, Prevention and Treatment of Influenza and Other Respiratory Infections in Panama and Central America Region, Funding Opportunity Announcements (FOAs) IP12–001, IP12–002,IP12–003, and IP12–006, initial review.

Correction: The notice was published in the **Federal Register** on January 26, 2012, Volume 77, Number 17, Page 4047. The place should read as follows:

Place: Crowne Plaza Hotel Atlanta-Airport, 1325 Virginia Avenue, Atlanta, GA 30344, Telephone: (404) 768–6660.

Contact Person for More Information: Gregory Anderson, MPH, MS, Scientific Review Officer, CDC, 1600 Clifton Road, NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 718–8833.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 6, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–6075 Filed 3–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1880 and –1882; CMS–10393; and CMS–R–245]

Agency Information Collection Activities: Submission for OMB Review; 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), Department of Health and Human Services, 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 function; (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:* Extension without change of a currently approved collection. *Title of Information Collection:* Certification as a Supplier of Portable X-Ray and Portable X-Ray Survey Report Form and Supporting Regulations at 42 CFR Part 486.100–486.110. *Use:* CMS–1880 is initially completed by suppliers of portable X-ray services, expressing an interest in and requesting participation in the Medicare program. This form initiates the process of obtaining a decision as to whether the conditions of coverage are met as a portable X-ray supplier. It also promotes data reduction or introduction to, and retrieval from, the Certification and Survey Provider Enhanced Reporting (CASPER) by the CMS Regional Offices (ROs).

CMS–1882 is used by the State survey agency to provide data collected during an on-site survey of a supplier of portable X-ray services to determine compliance with the applicable conditions of participation and to report this information to the Federal Government. The form is primarily a coding worksheet designed to facilitate data reduction and retrieval into the ASPEN system at the CMS ROs. The form includes basic information on compliance (i.e., met, not met, explanatory statements) and does not require any descriptive information regarding the survey activity itself. CMS has the responsibility and authority for certification decisions which are based on supplier compliance with the applicable conditions of participation. The information needed to make these decisions is available to CMS only through the use of information abstracted from the survey report form.

Subsequent to the publication of the 60-day **Federal Register** notice (December 23, 2011; 76 FR 80372), the Supporting Statement has been revised by making editorial changes and by adding clarifying language. The requirements and burden estimates have not changed. *Form Numbers:* CMS–1880 (Request for Certification as a Supplier of Portable X-Ray Services), CMS–1882 (Medicare/Medicaid Portable X-Ray Survey Report), and OCN 0938–0027. *Frequency:* Occasionally. *Affected Public:* State, Local, or Tribal Governments. *Number of Respondents:* 579. *Total Annual Responses:* 86. *Total Annual Hours:* 151. (For policy questions regarding this collection contact Georgia Johnson at 410–786–6859. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Existing collection in use without an OMB control number; *Title of Information Collection:* Medicare Beneficiary and Family-Centered Satisfaction Survey; *Use:* The data collection methodology used to determine Beneficiary Satisfaction flows from the proposed sampling approach. While it was feasible to conduct the 9th SOW via telephone data collection only, with a quarterly sample size for the 10th SOW estimated to be 2,664, it does not seem efficient to maintain a telephone only data collection approach. Based on recent literature on survey methodology and response rates by mode, we recommend using a data collection that is done primarily by mail. A mail-based methodology will achieve the goals of being efficient, effective, and minimally burdensome for beneficiary respondents.

As previously described, we anticipate that a mail-based methodology could yield a response rate

of approximately 60 percent. In order to achieve this response rate, we would recommend a 3-staged approach to data collection:

(1) Mailout of a covering letter, the paper survey questionnaire, and a postage-paid return envelope.

(2) Mailout of a postcard that thanks respondents and reminds the non-respondents to please return their survey.

(3) Mailout of a follow-up covering letter, the paper survey questionnaire, and a postage-paid return envelope.

Through the pilot test, we will determine the response rate that can be achieved using this approach. If it is deemed necessary, additional mailout reminders can be added to the protocol, or a telephone non-response step can be added to the protocol.

Using the 3-step mail approach described above, we anticipate that data collection would occur over an 8 to 10 weeks. This is to say, if the first survey mailing were dropped on May 1, we would anticipate completing data collection at the end of June or early July. Data would then be cleaned, scores would be generated, and data would be delivered to CMS. Through the pilot test, we will determine the precise timing required to achieve an acceptable response rate, but we are aiming to complete sampling, data collection, and scoring within a 12-week period.

Subsequent to the publication of the 60-day **Federal Register** notice (June 10, 2011; 76 FR 34076), the survey instrument has been separated into two surveys. Prior to this action, there was one survey proposed for the Quality of Care and Appeals review types. Once approved by OMB, there will be two survey instruments that will request similar information: one for Quality of Care and one for Appeals. *Form Number:* CMS–10393 (OCN 0938–New); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 16,010; *Number of Responses:* 16,010; *Total Annual Hours:* 4,002. (For policy questions regarding this collection, contact Coles Mercier at 410–786–2112. For all other issues call (410) 786–1326.)

3. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Medicare and Medicaid Programs OASIS Collection Requirements as Part of the CoPs for HHAs and Supp. Regs. in 42 CFR 48.55, 484.205, 484.245, 484.250; *Use:* This data set is currently mandated for use by Home Health Agencies (HHAs) as a condition of participation (CoP) in the Medicare program. Since 1999, the Medicare CoPs have mandated that HHAs use the OASIS data set when evaluating adult non-maternity patients receiving skilled services. The OASIS is a core standard assessment data set that agencies integrate into their own patient-specific, comprehensive assessment to identify each patient's need for home care that meets the patient's medical, nursing, rehabilitative, social, and discharge planning needs. There have not been any changes to the PRA package that is associated with the 60-day **Federal Register** notice that published on December 16, 2011 (76 FR 78264); *Form Number:* CMS–R–245 (OCN 0938–0760); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 11,495; *Total Annual Responses:* 16,476,008; *Total Annual Hours:* 16,567,968. (For policy questions regarding this collection contact Robin Dowell at 410–786–0060. 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.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on April 12, 2012.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

Dated: March 6, 2012.

Martique Jones,

Director, Regulations Development Group, Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–6036 Filed 3–12–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10428]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare and 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 and Medicaid Services (CMS), Department of Health and Human Services, 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review to ensure compliance with section 1862(a)(1)(A) of the Social Security Act. We cannot reasonably comply with the normal clearance procedures in that public harm is reasonably likely to result if normal clearance procedures are followed as stated in 5 CFR 1320.13(a)(2)(i).

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Pre-Existing Condition Insurance Plan (PCIP) HIPAA Authorization Form; *Use:* Unless permitted or required by law, the Health Insurance Portability and Accountability Act (HIPAA) privacy regulation at 45 CFR 164.508 prohibits CMS' Pre-Existing Condition Insurance Plan (PCIP) program (a HIPAA covered entity) from disclosing an individual's protected health information without a

valid authorization. In order to be valid, an authorization must include specified core elements and statements. CMS will make available to PCIP applicants and enrollees a standard, valid authorization to enable beneficiaries to request the disclosure of their protected health information. CMS will make available to PCIP applicants and enrollees a standard, valid authorization to enable beneficiaries to communicate with PCIP about their personal health information. This is a critical tool because the population the PCIP program serves is comprised of individuals with pre-existing conditions who may be incapacitated and need an advocate to help them apply for or receive benefits from the program. This standard authorization will simplify the process of requesting information disclosure for beneficiaries and minimize the response time for the PCIP program; *Form Number:* CMS–10428 (OMB 0938–New); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 2,100; *Total Annual Responses:* 2,100; *Total Annual Hours:* 525. (For policy questions regarding this collection contact Laura Dash at 410–786–8623. For all other issues call 410–786–1326.)

CMS is requesting OMB review and approval of this collection by March 22, 2012. To be assured consideration, comments and recommendations for the proposed information collections must be received by via one of the methods below on March 19, 2012.

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.gov/PaperworkReductionActof1995/PRAL/list.asp* 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.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be received via one of the following methods by March 19, 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 CMS–10417, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

3. *By Email to OMB.* OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Email: OIRA_submission@omb.eop.gov.*

Dated: March 8, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–6035 Filed 3–12–12; 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: Descriptive Study of Tribal Temporary Assistance for Needy Families (TANF) Programs—Interview Guides.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) is proposing an information collection activity as part of the Descriptive Study of Tribal TANF Programs. The proposed information collection consists of semi-structured interviews and focus groups with key Tribal TANF respondents on questions of Tribal TANF administration, policies, service delivery, and program context. Through this information collection, ACF seeks to gain an in-depth, systematic understanding of program implementation, operations, outputs and outcomes in selected sites, and identify promising practices and other areas for further study.

Respondents: Semi-structured interviews will be held with Tribal TANF administrators and staff, and staff of related programs. Focus groups will be held with Tribal TANF clients.

Annual Burden Estimates

Please note that the burden rates below are revised since the 60 day **Federal Register** Notice to reflect lower burden hours.

TABLE 1—ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Discussion Guide for use with tribal TANF Administrators	4	1	1.5	6
Discussion Guide for use with tribal TANF Staff	12	1	1	12
Discussion Guide for use with Focus Groups with tribal TANF clients	20	1	2	40
Discussion guide for use with staff of related programs	20	1	1	20
All instruments:				78

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: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@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: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: March 7, 2012.

Steven M. Hanmer,

Reports Clearance, Officer; Office of Planning, Research and Evaluation.

[FR Doc. 2012–5951 Filed 3–12–12; 8:45 am]

BILLING CODE 4184–37–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0194]

Agency Information Collection Activities: Proposed Collection; Comment Request; Biosimilars User Fee Cover Sheet; Form FDA 3792

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments concerning Form FDA 3792, entitled ''Biosimilars User Fee Cover Sheet.''

DATES: Submit written or electronic comments on the collection of information by May 14, 2012.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Juanmanuel Vilela, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7651, *Juanmanuel.vilela@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60 day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The March 23, 2010 Affordable Care Act contains a subtitle called the Biologics Price Competition and Innovation Act of 2009 (BPCI Act) that amends the Public Health Service Act (PHS Act) and other statutes to create an abbreviated approval pathway for biological products shown to be biosimilar to or interchangeable with an FDA-licensed reference biological product. Section 351(k) of the PHS Act, added by the BPCI Act, allows a company to submit an application for licensure of a biosimilar or interchangeable biological product. The BPCI Act also amends section 735 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) to include 351(k) applications in the definition of ''human drug application'' for the purposes of the prescription drug user fee provisions. The authority conferred by the FD&C Act's prescription drug user fee provisions expires in September, 2012. The BPCI Act directs FDA to develop recommendations for a biosimilar biological product user fee program for fiscal years 2013 through 2017. FDA's recommendations for a biosimilar biological product user fee program were submitted to Congress on January 13, 2012. If enacted into law, FDA's proposed biosimilar biological product user fee program would require FDA to assess and collect user fees for certain meetings concerning biosimilar biological product development (BPD meetings), investigational new drug applications (INDs) intended to support a biosimilar biological product application, and biosimilar biological product applications and supplements. Proposed Form FDA 3792, the Biosimilars User Fee Cover Sheet, requests the minimum necessary information to determine the amount of the fee required, and to account for and track user fees. The form would provide a cross-reference of the fees submitted for a submission with the actual submission by using a unique number tracking system. The information collected would be used by FDA's Center for Drug Evaluation and Research and Center for Biologics Evaluation and Research to initiate the administrative screening of biosimilar biological product INDs, applications, and supplements, and to account for and track user fees associated with BPD meetings.

Respondents to this proposed collection of information would be manufacturers of biosimilar biological product candidates. Based on FDA's database system, there are an estimated 18 manufacturers that fall into this category. However, not all manufacturers will have submissions in a given year and some may have multiple submissions. FDA estimates nine annual responses that include the following: Six INDs or BPD meetings, two applications, and one supplement. The estimated hours per response are based on FDA's past experience with other submissions, and average 30 minutes.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Form	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
FDA 3792	9	1	9	0.5	4.5

[1] There are no capital costs or operating maintenance costs associated with this collection of information.

Dated: March 7, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6034 Filed 3–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0085]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Cooperative Manufacturing Arrangements for Licensed Biologics

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Cooperative Manufacturing Arrangements for Licensed Biologics'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Alla S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *ila.mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On August 10, 2011, the Agency submitted a proposed collection of information entitled ''Cooperative Manufacturing Arrangements for Licensed Biologics'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0629. The approval expires on February 28, 2015. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: March 6, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6021 Filed 3–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–P–0527]

Determination That DURANEST (Etidocaine Hydrochloride) Injection, 0.5%, and Five Other DURANEST Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that the DURANEST (etidocaine hydrochloride) drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) that refer to these drug products if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Rachel Bressler, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6302, Silver Spring, MD 20993–0002, 301–796–4288.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

The drug products listed in the table in this document are no longer being marketed. DURANEST is indicated for infiltration anesthesia, peripheral nerve blocks (e.g., brachial plexus, intercostal retrobular, ulnar, inferior alveolar), and central nerve block (i.e., lumbar or caudal epidural blocks).

Application No.	Drug	Applicant	Initial approval date
NDA 17–751	DURANEST (epinephrine bitartrate; etidocaine hydrochloride) Injection 1%.	AstraZeneca Pharmaceutical	August 30, 1976.

Application No.	Drug	Applicant	Initial approval date
Do.	DURANEST (epinephrine bitartrate; etidocaine hydrochloride) Injection 1.5%.	.....do	Do.
Do.	DURANEST (epinephrine; etidocaine hydrochloride) Injection 0.5%	.....do	Do.
Do.	DURANEST (etidocaine hydrochloride) Injection 0.5%	.....do	Do.
Do.	DURANEST (etidocaine hydrochloride) Injection 1%	.....do	Do.
NDA 21–384	DURANEST (epinephrine bitartrate; etidocaine hydrochloride) Injection 1.5%.	DENTSPLY Pharmaceutical	Do.

The drug products listed in the table in this document are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book. Lachman Consultant Services, Inc. submitted a citizen petition dated September 25, 2008 (Docket No. FDA–2008–P–0527), under 21 CFR 10.30, requesting that the Agency determine whether DURANEST (etidocaine hydrochloride) Injection, 0.5% and 1%, were withdrawn from sale for reasons of safety or effectiveness. Although the citizen petition did not request a determination for the other DURANEST drug products listed in the table in this document, those drug products have also been discontinued. On our own initiative, we have also determined whether those products were withdrawn for safety or effectiveness reasons.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that the DURANEST drug products listed in the table in this document were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that the DURANEST drug products were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of the DURANEST drug products from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that the products were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the DURANEST drug products listed in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to any of the DURANEST drug products listed in the table in this document may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 8, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6039 Filed 3–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0022]

Draft Guidance for Industry on Direct-to-Consumer Television Advertisements—the Food and Drug Administration Amendments Act of 2007 Direct-to-Consumer Television Ad Pre-Dissemination Review Program; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Direct-to-Consumer Television Advertisements—FDAAA DTC Television Ad Pre-Dissemination Review Program.'' This draft guidance is intended to assist sponsors of human prescription drug products, including biological drug products, who are subject to the pre-dissemination review of television advertisements (TV ads) provision of the Federal Food, Drug, and Cosmetic Act (the FD&C Act). (The term ''pre-dissemination review'' is used throughout the guidance to refer to review under the FD&C Act, which is entitled ''Prereview of Television Advertisements.'') The draft guidance describes which TV ads FDA intends to make subject to this provision, explains how FDA will notify sponsors that an ad is subject to review under this provision, and describes the general and center-specific procedures sponsors should follow to submit their TV ads to FDA for pre-dissemination review in compliance with the FD&C Act. These proposed TV ads will be subject to a 45-calendar day review clock by FDA.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 14, 2012. Submit written comments on the proposed collection of information by May 14, 2012.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Regarding human prescription drugs: Marci Kiester, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 3368, Silver Spring, MD 20993–0002, 301–796–1200.

Regarding prescription human biological products: Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike,

suite 200N, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Direct-to-Consumer Television Advertisements—FDAAA DTC Television Ad Pre-Dissemination Review Program.'' The Food and Drug Administration Amendments Act of 2007 (FDAAA) added new section 503B to the FD&C Act, which gives FDA the authority to ''* * * require the submission of any television advertisement for a drug * * * not later than 45 days before dissemination of the television advertisement.'' In conducting a review of a TV ad under this section, FDA may make recommendations with respect to information included in the label of the drug on:

- Changes that are necessary to protect the consumer good and well-being, or that are consistent with prescribing information for the product under review; and
- Statements for inclusion in the advertisement to address the specific efficacy of the drug as it relates to specific population groups, including elderly populations, children, and racial and ethnic minorities, if appropriate and if such information exists. (21 U.S.C. 353b(b)(1) and (b)(2)).

FDA is issuing this guidance to communicate the categories of TV ads it generally intends to require sponsors to submit under this provision, to explain how it will notify sponsors that FDA is requiring review under section 503B of the FD&C Act for ads for a particular drug or group of drugs, and to provide sponsors with recommendations for the information they need to properly submit these ads to the Agency for pre-dissemination review.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on which TV ads it intends to require be submitted under section 503B of the FD&C Act and on the submission process for these ads. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing this notice of the proposed collection of information set forth in this document.

With respect to the collection of information associated with this draft guidance, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

FDA estimates the burden of this collection of information as follows:

Based on the number of TV ads produced annually by sponsors of human prescription drug and biological products, we estimate that we will receive approximately 80 ads per year for pre-dissemination review from approximately 30 sponsors for the Center for Drug Evaluation and Research (CDER) and 2 ads from 2 sponsors for CBER. FDA professionals familiar with TV ads and the recommendations in the draft guidance estimate that it should take a sponsor approximately 25 hours to prepare and send the pre-dissemination review package and documentation. This burden estimate includes all of the information specified for CDER and CBER in the draft guidance section entitled ''Contents of a Complete Pre-Dissemination Review Package'' and in the Appendix entitled ''Center-Specific Submission Procedures.''

FDA cannot provide final comments on the acceptability of a TV ad without reviewing a final recorded version in its entirety. However, some sponsors may wish to receive comments from the Agency before producing a final recorded version. Once the final recorded version is produced, it should be submitted to the Agency for pre-dissemination review. In this document, we have included in the table 1 burden estimate for section 503B of the FD&C Act the time necessary to prepare the final ad for submission.

If FDA receives an incomplete submission package from a sponsor, we will inform that sponsor and request a submission package that contains the missing materials. We estimate that we will request a package containing missing materials a total of 6 times from 6 different sponsors annually, and that it will take each sponsor 5 hours to prepare the resubmission with the missing materials. This resubmission with missing materials is included in table 1 of this document.

There is a 45-day review clock for TV ads submitted under section 503B. Under this review clock, FDA must notify the sponsor if the Agency is not able to provide comments within a 45-day timeframe. When a sponsor is notified by FDA that the Agency is not able to provide comments, the sponsor should inform FDA whether it will disseminate the TV ad without waiting for FDA comments, or wait for the Agency's comments before disseminating the ad. We anticipate that we will be able to review and comment on all TV ads submitted to the Agency within the 45-day review clock timeframe, but for the purposes of this collection of information, we are estimating that the Agency will be unable to provide comments within the 45-day timeframe to one sponsor for one TV ad per year. We estimate that the time needed for a sponsor to prepare a letter informing FDA of its decision to disseminate or not to disseminate the TV ad will be 1 hour.

This draft guidance also refers to previously approved collections of information found in FDA regulations. In the draft guidance, the Agency has noted that sponsors subject to the section 503B pre-dissemination review provision may revise their TV ads after receiving comments from the Agency but before disseminating the ads, and may wish to request additional comments under the voluntary submission process delineated in § 202.1(j)(4) (21 CFR 202.1(j)(4)). The collections of information in § 202.1(j)(4) have been approved under OMB control number 0910–0686. For pre-dissemination review packages for biological drug products under the purview of CBER, the Agency is requesting a copy of the most current version of Form FDA 2253 to

accompany the TV ad submission package. This collection of information for Form FDA 2253 has been approved under OMB control number 0910–0001.

Therefore, we estimate the annual reporting burden as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of submission	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
Advertisements prepared in accordance with section 503B of the FD&C Act	32	2.56	82	25	2,050
Resubmissions of incomplete submission packages	6	1	6	5	30
45-Day review clock decision letter	1	1	1	1	1
Total					2,581

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *http://www.regulations.gov.*

Dated: March 8, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6040 Filed 3–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Public Workshop on Minimal Residual Disease; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop to provide a forum for discussion of the use of minimal residual disease (MRD) as a biomarker for evaluating new drugs for the treatment of acute lymphoblastic leukemia (ALL). The meeting is cosponsored with the American Society of Clinical Oncology and will be the first in a series of workshops intended to bring together scientific and advocacy communities and the pharmaceutical and in vitro diagnostic device industries to help develop processes and procedures to qualify MRD as a biomarker of efficacy and/or response to treatment in a group of hematological malignancies.

DATES: *Date and Time:* The public workshop will be held on April 18, 2012, from 8 a.m. to 4 p.m.

Location: The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave. Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002.

Contact Person: Christine Lincoln, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 22, rm. 6413, Silver Spring, MD 20993–0002, 301–796–2340.

SUPPLEMENTARY INFORMATION:

I. Background

Clinical data from patients with certain subtypes of acute and chronic leukemia suggest that MRD can be established as a surrogate endpoint for clinical trials and drug approval. This public workshop will provide a forum for discussion among scientific and advocacy communities and the pharmaceutical and in vitro diagnostic device industries of issues related to the qualification (validation) of MRD as a biomarker (i.e., a measurable characteristic that is predictive of disease outcome) that can be used to determine efficacy and/or response in evaluation of new drugs for the treatment of ALL. Although the data related to the prognostic significance of MRD are most extensive in the pediatric population, and are currently used to stratify patients for risk-adjusted therapy, MRD may also be pertinent to subtypes of adult ALL; hematologists who treat adult patients have been invited to participate, as well as hematologists who treat pediatric patients. Topics to be discussed at the workshop include: (1) Evaluation of the prognostic biomarker data that is currently available to support the qualification of MRD as a marker of response and/or efficacy in both pediatric and adult ALL; (2) the specificity, sensitivity, and comparability of techniques that might be used in a standardized fashion to measure MRD; (3) the performance characteristics and proficiency assessment of current technology platforms; and (4) the design and analysis of the clinical trials needed to establish the use of postinduction MRD as an alternative endpoint for approval of new drugs to treat ALL.

This workshop is part of a series in which FDA's Office of Hematology and Oncology Products will explore the utility of MRD as a surrogate endpoint in ALL (including ALL that has recurred), chronic lymphocytic leukemia (CLL), and acute myeloid leukemia (AML). Given the diverse etiologies, pathophysiologies, and natural histories of these diseases and current practice standards, separate consideration of MRD as a surrogate endpoint in each disease is warranted. FDA is seeking representation from both North American and European academic investigators as well as cooperative groups at the workshops. The workshops for CLL and AML are tentatively scheduled for October 10 and 11, 2012, respectively.

II. Attendance and Registration

FDA encourages patient advocates, representatives from industry, consumer groups, health care professionals, researchers, and other interested persons to attend this public workshop.

Registration: There is no registration fee for the public workshop. To register electronically, please use the following Web site: *http://www.zoomerang.com/*

Survey/WEB22EJ4HRZLW9. (FDA has verified the Web site address, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

Seats are limited and conference space will be filled in the order in which registrations are received. Onsite registration will be available to the extent that space is available on the day of the conference.

Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Bldg. 1.

Dated: March 8, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6038 Filed 3–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0212]

Tobacco Product Analysis; Scientific Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

The Food and Drug Administration (FDA), Center for Tobacco Products is announcing a scientific workshop to solicit feedback on analysis of tobacco products. The analyses of tobacco products often involve tobacco reference products, which are used primarily as controls to ensure that the results of the analyses are reliable and accurate. This scientific workshop will focus on understanding how tobacco reference products are used and the testing methods used to analyze tobacco products. FDA will invite speakers to address scientific and technical matters relating to the testing of tobacco reference products and the analytical methods used to measure constituent levels in tobacco products and smoke. FDA is also opening a public docket to receive comments on these topics.

DATES: *Dates and Time:* The public workshop will be held on April 11, 2012, from 8:30 a.m. to 5:30 p.m., and on April 12, 2012, from 8:30 a.m. to 4 p.m. Individuals who wish to attend the public workshop must register by close of business on March 30, 2012. Submit either electronic or written comments to the docket by May 11, 2012.

Location: The public workshop will be held at 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373.

Contact Person: Anuja Patel, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD, 20850, 1–877–287–1373, FAX: 240–276–3761, email: *workshop.CTPOS@fda.hhs.gov.*

Registration to Attend the Workshop and Requests for Oral Presentations: If you wish to attend the workshop or make an oral presentation at the workshop, please email your registration to *workshop.CTPOS@fda.hhs.gov* by close of business on March 30, 2012. Those without email access may register by contacting Anuja Patel (see *Contact Person*). Please provide contact information for each attendee, including name, title, affiliation, address, email address, and telephone number. Registration is free and will be on a first-come, first-served basis. Early registration is recommended because seating is limited. FDA may limit the number of participants from each organization as well as the total number of participants based on space limitations. Registrants will receive confirmation once they have been accepted for the workshop. Onsite registration on the day of the workshop will be based on space availability. If registration reaches maximum capacity, FDA will post a notice closing registration for the workshop at *http://www.fda.gov/TobaccoProducts/NewsEvents/ucm238308.htm.*

There will be opportunities for audience participation at this workshop. FDA has included topics for comment in section II of this document. FDA will do its best to accommodate requests to speak during the workshop sessions, although questions from the audience may be limited. In addition, we strongly encourage submitting comments to the docket (see *Comments*).

If you need special accommodations because of disability, please contact Anuja Patel (see *Contact Person*) at least 7 days before the workshop.

Comments: Regardless of attendance at the public workshop, interested persons may submit either electronic or written comments on any of the topics for discussion in section II of this document by May 11, 2012. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background and Workshop Topics

The purpose of this scientific workshop is to obtain information and comments from appropriate scientific experts on analysis of tobacco products. Such experts could include, but are not limited to, scientists from academia, tobacco product manufacturers, and contract testing laboratories. The workshop will include scientific experts who will present scientific and technical information on testing of tobacco reference products for different types of tobacco products. The types of tobacco reference products to be discussed include, but are not limited to, smoked tobacco products, smokeless tobacco products, and other tobacco products not classified as either smoked or smokeless products. FDA would like to discuss how the tobacco reference products are used for testing purposes to ensure accuracy of analysis of tobacco products. Tobacco reference products are analyzed alongside test tobacco products (i.e., during every step of the analysis). Tobacco reference products are intended for use during analysis of tobacco products and are not intended for human consumption. Tobacco reference products are finished tobacco products and are distinct from internal reference standards, which are chemicals or mixtures of chemicals. Internal reference standards are used during only certain steps of the analysis of test tobacco products (e.g., when running samples).

The scientific workshop will include discussion of analytical methods for measuring certain constituents in tobacco products and smoke. The aspects of analytical methods that will be discussed include extraction, separation, and detection methods. For example, FDA would like to get input from scientific experts on how tobacco-specific nitrosamines (TSNAs) are extracted from smokeless tobacco products and cigarette smoke particulate matter and what instrumentation (e.g., gas chromatography-mass spectrometry) is used to measure the levels of TSNAs.

FDA is interested in receiving substantive scientific input at the workshop and in the docket. The input from the scientific workshop may assist us in developing future scientific

workshops regarding analysis of tobacco products.

II. Workshop Topics for Discussion

FDA will explore all or some of the following topics during this scientific workshop:

1. Availability, Manufacture, and Characterization of Tobacco Reference Products

A. Discuss the current availability of tobacco reference products for different types of tobacco products and what new products would be beneficial.

B. Discuss the types and blends of tobacco used in reference products. What additional blends or other product characteristics should be most applicable for all products, both those currently and those expected to be introduced on the market?

C. Describe the storage conditions for tobacco reference products to ensure shelf life. Please provide data that shows product changes under different storage conditions. What storage conditions are most critical in maintaining product integrity? What precautions should be taken to ensure product integrity?

D. Discuss the stability of the tobacco reference products and methods used to verify product stability. What precautions are taken to maximize product stability? What product characteristics are most stable and which are least stable?

E. Describe any ongoing work to develop tobacco reference products that are not currently available for laboratory use. Discuss considerations made when determining the need and developing a new tobacco reference product.

2. Uses of Reference Products During Analysis of Tobacco Products

A. Discuss the physical and chemical measurements performed on tobacco reference products during analysis of tobacco products. Please provide data. How are reference products used in research and manufacturing?

B. Discuss the advantages and disadvantages of using one or multiple tobacco reference products when performing analysis of a given tobacco product type.

C. Discuss the procedures used when transitioning from using one tobacco reference product to using another tobacco reference product for the same tobacco product type to ensure long-term consistency in findings.

D. Discuss the policies, procedures, and frequency related to discarding data for reference products due to unacceptable analytical results.

E. Discuss the policies and procedures used in research and manufacturing when no tobacco reference product is available for a specific type of tobacco product. Is there a policy of using a similar product when the specific reference product is not available? What considerations are applied?

F. Describe characteristics of a tobacco reference product that would provide advantages or disadvantages over another.

3. Variability Observed in Measurements of Tobacco Reference Products

A. Provide data that address the variability that exists in the chemical measures of a reference product analyzed within the same laboratory. Describe how measures compare between different laboratories.

B. Provide data that address the variability that exists in the physical measures of a reference product analyzed within the same laboratory. Describe how measures compare between different laboratories.

C. Describe any other factors that affect the variability of a tobacco reference product when analyzed using analytical measurements.

D. Discuss the procedures or methods that have been used or may be used to reduce the tobacco reference product variability.

4. Methods Suitable for Measuring the Following in Smoked and Smokeless Tobacco Products: pH, Tobacco-Specific Nitrosamines, Polycyclic Aromatic Hydrocarbons, Carbon Monoxide, and Metals

A. Discuss the sample preparation or extraction methods for measuring the analytes.

B. Discuss the analytical methodologies (gas chromatography, thermal energy analyzer, liquid chromatography, mass spectrometry, etc.) used for quantifying analytes.

C. Discuss the statistical or other mathematical procedures for quantification.

D. Discuss the availability and use of internal reference standards to quantify the analytes.

E. Discuss the approaches and testing methods which are intended to combine measuring of multiple analytes within the same class of constituents into a single analysis. Particularly discuss the benefits in reference to sample throughput and the loss in terms of sensitivity, selectivity, or other analytical terms of reference.

F. Discuss the approaches and testing methods which are intended to measure analytes across different classes of constituents. Particularly discuss the benefits in reference to sample throughput and the loss in terms of sensitivity, selectivity, or other analytical terms of reference.

III. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Dated: March 8, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6037 Filed 3–12–12; 8:45 am]

BILLING CODE 4160–01–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; PAR11–350 Research Using Biosamples from Selected Type 1 Diabetes Clinical Studies (DP3).

Date: April 2, 2012.

Time: 2:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health,

Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Collaborative Interdisciplinary Team Science R24–6.

Date: April 11, 2012.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–6019 Filed 3–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Application (P01).

Date: March 20, 2012.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, Room 3128, Bethesda, MD 20892–7616, 301–451–2744, *battlesja@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (PO1).

Date: April 3, 2012.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, Ph.D., Scientific Review Officer, NIAID/NIH/DHHS, Scientific Review Program, Room 3122, 6700–B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–3684, *bgustafson@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''NIH Support for Conferences and Scientific Meetings (Parent R13/U13)''

Date: April 9–11, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Virtual Meeting).

Contact Person: Jay R. Radke, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive MDS–7616, Bethesda, MD 20892–7616, 301–496–2550, *jay.radke@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–6020 Filed 3–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

National Eye Institute Notice of Closed 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 Eye Institute Special Emphasis Panel; Vision Research Grant Applications.

Date: April 2, 2012.

Time: 8:30 p.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: Daniel R. Kenshalo, Ph.D., Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *kenshalod@nei.nih.gov*.

Name of Committee: National Eye Institute Special Emphasis Panel; Posterior Eye Disease, Epidemiology and Genetics.

Date: April 17, 2012.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, National Institutes of Health, 5635 Fishers Lane (Telephone Conference Call).

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–6018 Filed 3–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 a meeting of the Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be closed to the public as indicated below in accordance

with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research,

Date: May 30–June 1, 2012.

Time: May 30, 2012, 7 p.m. to 10 p.m..

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 30, 30 Center Drive, 117, Bethesda, MD 20892.

Time: May 31, 2012, 8 a.m. to adjournment.*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 30, 30 Center Drive, 117, Bethesda, MD 20892

Contact Person: Alicia J. Dombroski, Ph.D., Director, Division of Extramural Activities, Natl Inst of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about/Council_Committees.asp*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: March 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–6017 Filed 3–12–12; 8:45 a.m.]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Citizenship and Immigration Services

Agency Information Collection Activities: Form I–829, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–829, Petition by Entrepreneur to Remove Conditions.

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. The information collection notice is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until May 14, 2012.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–829. Should USCIS decide to revise Form I–829, we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–829.

Written comments and suggestions regarding items contained in this notice, and especially with regard to 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 add the OMB Control Number 1615–0045 in the subject box.

Note: The address listed in this notice should only be used to submit comments concerning 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.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, 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:* Petition by Entrepreneur to Remove Conditions.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–829. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove conditions on his or her conditional residence, and on the conditional residence for his or her spouse and children(s).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 441 responses at 1 hour and 5 minutes (1.08 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 476 annual burden hours.

We may also be contacted at: USCIS, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue NW., Room 5012, Washington, DC 20529–2020, Telephone number 202–272–8377.

March 8, 2012.

Sunday A. Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–6013 Filed 3–12–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5529–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2011

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development

Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2011, and ending on December 31, 2011.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street, SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–1793 (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.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2011.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2011 through December 31, 2011. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are set out in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2011) before the next report is published (the first quarter of calendar year 2012), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: March 6, 2012.

Helen R. Kanovsky,

General Counsel.

APPENDIX

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2011 Through December 31, 2011

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 91.115(c)(2).

Project/Activity: The State of New York requested a waiver of HUD regulation at 24 CFR 91.115(c)(2), which requires the citizen participation plan to provide a period not less than 30 days, to receive comments on the substantial amendment of the State's Consolidated Plan. The waiver would allow the State to reduce the comment period and expeditiously implement amendments to its Method of Distribution, and hence assist jurisdictions affected by Hurricane Irene and Tropical Storm Lee. A federal disaster declaration was issued for most jurisdictions in the State of New York on August 31, 2011.

Nature of Requirement: HUD's regulation at 24 CFR 91.115(c)(2) requires the citizen participation plan to provide a period not less than 30 days, to receive comments on the substantial amendment of the State's Consolidated Plan.

Granted by: Mercedes Márquez, Assistant Secretary for Community Planning and Development.

Date Granted: October 4, 2011.

Reason Waived: HUD determined that a reduced public comment period from 30 to 7 days would allow the State of New York to implement the amendment to its 2011 Method of Distribution and annual action plan and enable the State to provide assistance to affected local governments in a timely manner.

Contact: Steve Rhodeside, Director, State and Small Cities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7184, Washington, DC 20410, telephone (202) 402–7375.

• *Regulations:* 24 CFR 92.2

Project/Activity: Charlottesville Consortium, Virginia, VA requested that HUD waive the definition of homeownership set forth at 24 CFR 92.2 to enable Fluvanna/Louisa Housing Foundation to provide homeowner rehabilitation assistance to a two-person household that did not meet the definition of homeownership.

Nature of Requirements: The HOME Investment Partnerships (HOME) program regulations at 24 CFR 92.2 defines homeownership as ''ownership in fee simple title or a 99 year leasehold interest in a one- to four-unit dwelling or in a condominium, or equivalent form of ownership approved by HUD.''

Granted by: Mercedes Márquez, Assistant Secretary for Community Planning & Development.

Date Granted: October 14, 2011.

Reasons Waived: The waiver request information disclosed that one occupant of the household is mentally disabled and has an ownership interest through a trust, of which the individual is the sole beneficiary. Both the land and improvements are held by the trust, which is managed by a court-appointed attorney. The occupants qualify as a low-income household. HUD granted the waiver so that the disabled, low-income household would not have to continue to live in severely substandard conditions.

Contact: Virginia Sardone, Deputy Director, Office of Affordable Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 570.486(a)(5).

Project/Activity: The State of New York requested a waiver of HUD's Community Development Block Grant (CDBG) regulation at 24 CFR 570.486(a)(5),which addresses citizen public hearings. The waiver request stated that granting of the waiver would give the State some flexibility in addressing the needs of communities affected by Hurricane Irene and Tropical Storm Lee. A federal disaster was issued for most jurisdictions in the State of New York on August 31, 2011.

Nature of Requirement: The CDBG regulation at 24 CFR 570.486(a)(5) requires each unit of general local government to provide a minimum of two public hearings, at different stages of the program, for the purpose of obtaining citizens' views and responding to proposals and questions.

Granted by: Mercedes Márquez, Assistant Secretary for Community Planning and Development.

Date Granted: October 4, 2011.

Reason Waived: This waiver was determined necessary because, given the unexpected nature of the disaster, the waiver would allow the State of New York to address the needs and expenses of communities as they recover from the effects of the hurricane and tropical storm in a more timely manner.

Contact: Steve Rhodeside, Director, State and Small Cities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7184, Washington, DC 20410, telephone (202) 402–1322.

• *Regulation:* 24 CFR 574.330(b)(1) and (b)(2).

Project/Activity: The Downtown Emergency Service Center (DESC), a competitive grant recipient in Seattle, WA, under the Housing Opportunities for Persons With AIDS (HOPWA) requested a waiver of the HOPWA short-term supported housing regulation to continue the provision of emergency shelter housing assistance to homeless men with challenging mental health issues. At the time of the waiver request, DESC was assisting 60 households in their short-term emergency housing facility, which is over the maximum 50 households allowed by HOPWA regulation.

Nature of Requirement: The HOPWA regulation at 24 CFR 574.330(b)(1) and (b)(2) address short-term supported housing and states that ''A short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals.''

Granted by: Mercedes Márquez, Assistant Secretary for Community Planning and Development.

Date Granted: December 1, 2011.

Reason Waived: It was determined that the unavailability of other reasonable critical short-term emergency housing options within close proximity of this facility was an impediment to identifying other housing options for homeless individuals with challenging mental health issues. Based on a continuing need that has resulted in two previous waiver request approvals, this waiver was granted for the duration of DESC's three year period which concludes on August 31, 2013.

Contact: Mark Johnston, Deputy Assistance Secretary for Special Needs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7276, Washington, DC 20410, telephone (202) 708–1590.

• Neighborhood Stabilization Program 3 Notice, published on October 19, 2010, at 75 FR 64333 (II.H.3.F), issued under the heading Community Planning and Development: Community Development Fund of title XII of Division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5, approved February 17, 2009).

Project/Activity: Genesee County, Michigan requested a waiver of the 10 percent demolition cap under the Neighborhood Stabilization Program (NSP) which restricts grantees from spending more than 10 percent of total grant funds on demolition activities. Genesee County, requested a waiver to spend $532,644 or approximately twenty percent of its NSP3 allocation on demolition of blighted structures.

Nature of Requirement: Section II.H.3.F of the NSP3 Notice provides that a grantee may not use more than ten percent of its grant for demolition activities.

Granted by: Mercedes Márquez, Assistant Secretary for Community Planning and Development.

Date Granted: October 25, 2011.

Reason Waived: The County provided statistical data evidencing high vacancy and abandonment rates due to significant population and job loss. The County explained that there are a high number of properties requiring immediate demolition to remove safety hazards and the destabilizing influence of the blighted properties. With the additional funds to use towards demolition, the County expected to demolish an estimated 235 residential units. On the basis of this information, the waiver was granted.

Contact: Jessie Handforth Kome, Deputy Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7286, Washington, DC 20410, telephone (202) 402–5539.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 203.37a(b)(2).

Project/Activity: Extension of Temporary Exemption from Compliance with FHA's Regulation on Property Flipping, published on December 28, 2011 at 76 FR 81363.

Nature of Requirement: The regulation prohibits the use of FHA financing to purchase single family properties that are being resold within 90 days of the previous acquisition.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: December 22, 2011.

Reason Waived: With the home foreclosure rate remaining high across the nation, a temporary waiver of this regulation on a nationwide basis, subject to certain conditions, may contribute to stabilizing real estate prices and neighborhoods that have been heavily impacted by foreclosures, and may facilitate the sale and occupancy of foreclosed homes that have been rehabilitated by making the mortgages of such homes eligible for FHA mortgage insurance.

Contact: Karin B. Hill, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9278, Washington, DC 20410, telephone (202) 708–2121.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Northgate and Greenfield Apartments, Burlington, Vermont—FHA Project Numbers 026–55001 and 026–55002. The owner of the property was in the position of being unable to repay the Flexible Subsidy Operating Assistance Loan without dire consequences to the property and residents that reside there.

Nature of Requirement: HUD's regulations at 24 CFR 219.220(b) governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the

project* * *.'' Either of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy Loan would be repaid, in whole, at that time.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: November 1, 2011.

Reason Waived: HUD granted the waiver, which allowed the owner to defer repayment of the Flexible Subsidy Loans, merge the Northgate and Greenfield properties into a single piece of real estate, combine Section 8 Housing Assistance Payment (HAP) contracts, combine Flexible Subsidy Loans, and redevelop the existing projects. In connection with the granting of the waiver, a Rental Use Agreement was recorded extending the affordability of the project for 40 years, the terms of the new financing.

Contact: Marilyn M. Edge, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6136, Washington, DC 20410, telephone (202) 708–2654.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Woodledge/Morrant Bay, Dorchester, Massachusetts—FHA Project Number 023–005–NI. The owner/managing agent requested a deferral of repayment of the Flexible Subsidy Operating Assistance Loan in order to redevelop the existing project.

Nature of Requirement: HUD's regulations at 24 CFR 219.220(b) governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: October 31, 2011.

Reason Waived: The property owner was granted their request to defer repayment of the Flexible Subsidy loan as part of a proposal to redevelop the existing project. Granting the waiver allowed for the recapitalization of the project, restoring the original total of 129 units, with the same mix of unit sizes. The purchase and rehabilitation of the project is to be funded using Low-Income Housing Tax Credit equity, a new Risk Sharing mortgage, and other sources. In connection with the granting of the waiver, a new Rental Agreement was recorded, extending the affordability of the project for 40 years.

Contact: Marilyn M. Edge, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6136, Washington, DC 20410, telephone (202) 708–2654.

• *Regulation:* 24 CFR 236.725.

Project/Activity: Roberto Clemente Plaza a.k.a. Kent Village, Brooklyn, New York—FHA Project Number 012–167NI. The owner/management agent requested waiver of the regulation to permit the continuation of Rental Assistance Payments after the payoff of the non-insured Section 236 mortgage under a Section 236(e)(2) Decoupling transaction.

Nature of Requirement: HUD regulations at 24 CFR 236.725 require that the rental assistance contract shall be limited to the term of the mortgage or 40 years from the date of the first payment made under the contract, whichever is the lesser.

Granted By: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: October 14, 2011.

Reason Waived: This waiver was granted to allow the project to continue receiving Rental Assistance Payments and avoid termination of tenant subsidy when the owner repays the mortgage as part of the decoupling process. The project is being processed under the Section 236 Decoupling program which states that the project may refinance its Section 236 insured mortgage and continue to receive the Section 236 Interest Reduction Payment subsidy, predicated on the project entering into a recorded Use Agreement. This Use Agreement will restrict the project's operation under the Section 236 program requirements until the maturity date of the original noninsured Section 236 mortgage plus an additional five years. As a result, the 534 units at the property will also undergo substantial rehabilitation. The project is to be maintained as an affordable housing resource for current and future residents of this neighborhood.

Contact: Marilyn M. Edge, Acting Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6l60, Washington, DC 20410, telephone (202) 708–2654.

• *Regulation:* 24 CFR 232.3.

Project/Activity: The Villas at La Canada is a 100 percent high acuity assisted living facility located in Tucson, Arizona.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: December 2, 2011.

Reason Waived: The waiver was granted because of the specific clientele served by the Villas at La Canada, high acuity residents, many residents need assistance with bathing and present special circumstances that do not exist in a traditional assisted living facility. In terms of the existing buildings, the ''hallways'' which the residents in each building must cross in order to bathe are not located in an area that will be frequented by anyone other than staff or other residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 2337, Washington, DC 20410, telephone (202) 402–1672.

• *Regulation:* 24 CFR 232.3.

Project/Activity: Heritage Green Daybreak is a 60 bed assisted living facility located in Lynchburg, Virginia.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: December 2, 2011.

Reason Waived: HUD granted the waiver because the lender informed the Office of Healthcare Programs that subsequent to obtaining 232/223(f) insurance from the Federal Housing Administration (FHA), an expansion project would be commenced using HUD's authority under section 241(a) of the National Housing Act (12 U.S.C. 1715z–6). This expansion will add 10 additional full bathrooms in the facility, thereby, reducing the resident to full bathroom ratio to 4:1. In terms of the existing buildings, the ''hallways'' which the residents on each floor must cross in order to bathe are not located in an area that will be frequented by anyone other than staff or other residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 2337, Washington, DC 20410, telephone (202) 402–1672.

• *Regulation:* 24 CFR 232.3

Project/Activity: Heritage Green at Hanover is a 64 bed assisted living facility located at Mechanicsville, Virginia.

Nature of Requirement: HUD's regulation at 24 CFR 232.3 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: December 2, 2011.

Reason Waived: HUD granted the waiver because the lender informed the Office of Healthcare Programs that subsequent to obtaining 232/223(f) insurance from FHA, an expansion project would be commenced using HUD's authority under section 241(a) of the (12 U.S.C. 1715z–6). This expansion will add 10 additional full bathrooms in the facility, thereby, reducing the resident to full bathroom ratio to 4:1. In terms of the existing buildings, the ''hallways'' which the residents on each floor must cross in order to bathe are not located in an area that will be frequented by anyone other than staff or other residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 2337, Washington, DC 20410, telephone (202) 402–1672.

• *Regulation:* 24 CFR 232.3.

Project/Activity: Hilton East Assisted Living serves 178 residents within the 140

room facility and is located in Hilton, New York.

Nature of Requirement: HUD's regulation at 232.3 mandates in a board and care home or assisted living facility that the not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner

Date Granted: December 20, 2011.

Reason Waived: HUD granted the waiver because Hilton East's full bathroom ratio was determined acceptable, because the frail elderly residents are assisted with their bathing by caregivers for safety purposes. To access the shower and tub bathing areas, the residents must exit their rooms and walk down the common hallway shared with the other residents in the sleeping area.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 2337, Washington, DC 20410, telephone (202) 402–1672.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Rock Ridge Apartments, McAlester, OK; Project Number: 118–HD037/OK56–Q081–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: November 2, 2011.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mojave Cedar Supportive Housing, Inc., Las Vegas, NV; Project Number: 125–HD077/NV25–Q091–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: November 8, 2011.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Leeway Welton Apartments, New Haven, CT; Project Number: 017–HD041/CT26–Q071–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: December 6, 2011.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Incor Two, Muskogee, OK; Project Number: 118–HD038/OK56–Q081–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: December 19, 2011.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Roeser Haciendas Senior Housing, Phoenix, AZ; Project Number: 123–EE107/AZ20–S081–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 3, 2011.

Reason Waived: Additional time was needed for the sponsor/owner to complete the archeological review process, submit the firm commitment application and for the project to achieve initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Fillmore Haciendas, Phoenix, AZ; Project Number: 123–EE105/AZ20–S071–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 6, 2011.

Reason Waived: Additional time was needed for the initial closing package to be reviewed and for the project to achieve an initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Villa Davis (fka Triple R Behavioral Health), Phoenix, AZ; Project Number: 123–HD044/AZ20–Q081–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 6, 2011.

Reason Waived: Additional time was needed for the sponsor/owner to secure additional funds to cover a significant shortfall and for the project to reach initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Liberty Resources 13, Philadelphia, PA; Project Number: 034–HD100/PA26–Q081–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 6, 2011.

Reason Waived: Additional time was needed for the project to achieve initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Northbrook Village II/AKA Berlin, Berlin, MA; Project Number: 023–EE232/MA06–S081–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 7, 2011.

Reason Waived: Additional time was needed for the required permits to be issued and for the project to reach an initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Colter Commons, Phoenix, AZ; Project Number: 123–EE109/AZ20–S081–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 7, 2011.

Reason Waived: Additional time was needed for the sponsor/owner to resolve some issues with the firm commitment application and for the project to achieve initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Leeway Welton Apartments, New Haven, CT; Project Number: 017–HD041/CT26–Q071–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 7, 2011.

Reason Waived: Additional time was needed for the firm commitment application to be resubmitted and processed and for the project to reach an initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Volunteers of America National Services, Gary, IN; Project Number: 073–EE125/IN36–S081–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 19, 2011.

Reason Waived: Additional time was needed for the firm commitment application to be submitted and processed and for the project to reach initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Newbury Senior Housing, Newbury, NH; Project Number: 024–EE120/NH36–S081–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 26, 2011.

Reason Waived: Additional time was needed due to litigation.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lane Manor, Stone Mountain, GA; Project Number: 061–EE166/GA06–S081–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: October 26, 2011.

Reason Waived: Additional time was needed to issue a firm commitment and for the project to reach initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Incor Two, Muskogee, OK; Project Number: 118–HD038/OK56–Q081–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 10, 2011.

Reason Waived: Additional time was needed for the project to reach initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Bridge Gardens aka Bridge House II, Bronx, NY; Project Number: 012–HD106/NY36–Q011–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 18, 2011.

Reason Waived: Additional time was needed for review of the closing documents and for the project to reach initial closing.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Benedict's Place, Cherry Hill, NJ; Project Number: 035–EE056/NJ39–S081–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 23, 2011.

Reason Waived: Additional time was needed for the sponsor/owner to receive the firm commitment and prepare the initial closing package.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Shawnee Supportive Housing, Shawnee, KS; Project Number: 084–HD054/KS16–Q061–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 29, 2011.

Reason Waived: Additional time was needed for the sponsor/owner to receive the firm commitment and prepare the initial closing package.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Rock Ridge Apartments, McAlester, OK; Project Number: 118–HD037/OK56–Q081–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: November 29, 2011.

Reason Waived: Additional time was needed for the sponsor/owner to receive the firm commitment and submit the initial closing documents.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lane Manor, Lithonia, GA; Project Number: 061–EE166/GA06–S081–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 7, 2011.

Reason Waived: Additional time was needed for the firm commitment to be issued and for the initial closing package to be submitted and processed.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.830(c)(4).

Project/Activity: Dimmitt Woods, Batavia, OH; Project Number: 046–EE100/OH10–S091–002.

Nature of Requirement: Section 891.830(c)(4) requires that capital advance funds are drawn down only in an approved ratio to other funds, in accordance with a drawdown schedule approved by HUD.

Granted by: Carol J. Galante, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: December 20, 2011.

Reason Waived: HUD in its response to the public comments in the final rule published September 13, 2005 (70 FR 54210), stated, ''while HUD generally expects the capital advance funds to be drawn down in a one-to-one ratio for eligible costs actually incurred, HUD may permit on a case-by-case basis, some variance from the drawdown requirements as needed for the success of the project.'' Therefore, the waiver was granted to permit capital advance funds to be used to collateralize the tax exempt bonds issued to finance the construction of the project and to pay off a portion of the tax-exempt bonds that strictly relate to capital advance eligible costs.

Contact: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6134, Washington, DC 20410, telephone (202) 708–3000.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of Diboll, (TX229), Diboll, TX.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2011.

Reason Waived: The HA advised that its auditor passed away during the audit fieldwork and that its new auditor was not able to meet the financial submission due dates as a result of other audited submission and income tax commitments. The HA requested a waiver of the Late Presumptive Failure (LPF) score of zero for the audited financial submission. The waiver was approved and provided additional time to permit the audit documentation to be completed and the financial statements to be prepared and their entry of the March 31, 2010, audited financial information into Real Estate Assessment Center's online system. However, this audited submission waiver does not apply to Circular A–133 submissions to the Federal Audit Clearinghouse. The HA is required to meet the A–133 due dates.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Virgin Islands Housing Authority, (VQ001), St. Thomas, VI.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2011.

Reason Waived: The HA requested an additional 60 days to submit its audited financial information under the Financial Assessment Subsystem (FASS) for fiscal year end (FYE) December 31, 2010. The HA advised that as a result of serious data migration problems related to the conversion to a new accounting system and an extensive reorganization of the Finance Department, the HA would not be able to submit their fiscal year 2010 audit by the September 30, 2011, due date. Additionally, HUD was advised that the HA's audit firm had issues with documentation and evidential support of significant balances and transactions and accounting knowledge of historical balances and transactions, affecting the current year. The waiver was approved and additional time was provided to permit the HA in conjunction with the auditor, to complete the fiscal year 2010 audit. However, this audited submission waiver does not apply to Circular A–133 submissions to the Federal Audit Clearinghouse. The HA is required to meet the A–133 due dates.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Hartshorne/Haileyville Housing Authority, (OK072), Hartshorne, OK.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 5, 2011.

Reason Waived: The HA advised that as a result of significant delays and missed due dates by its auditor, the HA's financial statement audit (non-A–133) would not be timely completed. The HA requested a waiver of the audited financial submission requirements for fiscal year end (FYE) June 30, 2010. Specifically, the HA requested an additional 180 days to submit its FYE June 30, 2010, audited financial information. The waiver was approved and additional time was provided to permit the audit documentation to be adequately completed. Granting the waiver also allowed ample time for drafting the financial statements and the inputting of the audited financial information into the on-line system. Since the HA is

considered a small HA, comprised of approximately 44 units, and has expended approximately $118,000 in federal awards, the HA was asked to consider selecting unaudited/no audit for its unaudited submission type. Specifically, an audited submission is required when a HA expends over $500,000 in federal awards or receives audit costs as an audit add-on the 52723 Operating Subsidy form.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Rochester Housing Authority, (NY041), Rochester, NY.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 6, 2011.

Reason Waived: The HA requested a waiver of the audited financial submission under the Financial Assessment Subsystem (FASS) for fiscal year end (FYE) September 30, 2010. The HA advised that it's FASS audited information was submitted timely, but following a rejection by the FASS team, the corrected information was not resubmitted timely due to other processing activity of the finance department. Consequently, additional time was required to resubmit the FYE September 30, 2010, FASS audited submission. The waiver was granted and allowed additional time for the financial data schedule to be adequately completed and for the inputting of the corrected audited financial information into REAC's FASS on-line system. The HA was required to resubmit its audited financial information no later than October 15, 2011. However, this FASS audited submission waiver (extension) does not apply to Circular A–133 submission to the Federal Audit Clearing house.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: South Pittsburgh Housing Authority, (TN037), South Pittsburgh, TN.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 5, 2011.

Reason Waived: The housing authority (HA) experienced severe thunder storms with straight line winds that caused major damage to the HA's properties. The Federal Emergency Management Agency (FEMA) announced that Marion County had been declared a disaster area due to the storm. The damages include roofs, framing structures, weather heads, downed trees and extensive brush. After the brush is cleared, major site and property work will be required to repair the damages to the site and grounds. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted. Waiving the reporting requirements provided the HA with the necessary time to tend to any damage caused by the storm.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Housing Authority of the City of Goldsboro, (NC015), Goldsboro, NC.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 19, 2011.

Reason Waived: On April 27, 2011, the housing authority (HA) sustained extensive damage throughout the HA's inventory due to Hurricane Irene. The HA's properties experienced substantial damage to roofs, siding, fallen tree debris, and internal damage to walls and ceilings due to leaking roofs. The HA was able to repair some of the damage, however, a great deal of roofing, siding and general clean-up remains. The HA advised that a physical inspection at this time would unduly penalize the HA and adversely affect its Public Housing Assessment System score (PHAS). The waiver was granted and provided the HA with the necessary time to tend to any damage caused by the storm. The HA will be scheduled for its fiscal year 2012 inspection at a later date, which will become the baseline year of inspections under the PHAS Interim Rule.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Jasper Housing Authority, (AL012), Jasper, AL.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 26, 2011.

Reason Waived: On April 27, 2011, the housing authority (HA), along with other counties in the State of Alabama was declared disaster areas, as a result of incurring severe tornado damages. The HA suffered major damages and is currently working with the insurance adjustor in an effort to settle the damage claims. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted and provided the HA the necessary time to attend to any damage caused by the storm.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Phil Campbell Housing Authority, (AL090), Phil Campbell, AL

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 31, 2011.

Reason Waived: The Franklin County areas along with other counties in the State of Alabama were declared a disaster area on April 29, 2011, as a result of incurring severe tornado damage. The housing authority (HA) suffered major damages. As a result, the HA had to demolish 42 units, its office and maintenance shop due to the tornado damage. Since suffering damage to its properties, the HA has been working with the insurance adjustor in an effort to settle the damage claim. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted providing the HA with the necessary time to attend to any damage caused by the storm.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Housing Authority of Leeds, (AL069), Leeds, AL.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to

determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2011.

Reason Waived: On April 27, 2011, the housing authority (HA), along with other counties in the State of Alabama was declared disaster areas, as a result of incurring severe tornado damages. The HA had many fallen trees that caused major damage to its properties. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted providing the HA with the necessary time to attend to any damage caused by the storm.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Housing Authority of the City of Joplin, (M0188), Joplin, MO.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2011.

Reason Waived: On May 22, 2011, Joplin Missouri was struck by a tornado, which resulted in devastation throughout the city. The HA suffered extensive damage to its properties and its administrative offices. It has been determined that 103 low-income public housing units were completely destroyed. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted providing the HA with the necessary time to attend to any damage caused by the storm.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Hackleburg Housing Authority, (AL076), Guin, AL.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2011.

Reason Waived: On April 27, 2011, the county that encompasses the housing authority (HA) was declared a disaster area as a result of incurring severe tornado damage. The HA suffered major damage to its properties. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted providing the HA with the necessary time to attend to any damage caused by the storm.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 902.20.

Project/Activity: Rahway Housing Authority, (NJ032), Rahway, NJ.

Nature of Requirement: The objective of HUD's regulation at 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property or properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 30, 2011.

Reason Waived: On August 26, 2011, Hurricane Irene caused severe damage in New Jersey. There was significant flooding and damage to the HA, as well as several areas of New Jersey. As a direct result of the hurricane, the HA evacuated 33 senior citizen units. Restoration of the damaged units is anticipated to be completed in the beginning of 2012. The HA advised that a physical inspection at this time, would unduly penalize the HA and adversely affect its Public Housing Assessment System (PHAS) score. The waiver was granted providing the HA with the necessary time to attend to any damage caused by Hurricane Irene.

Contact: Johnson Abraham, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–8583.

• *Regulation:* 24 CFR 941.606(n)(1)(ii).

Project/Activity: Boulevard Homes HOPE VI Project, Charlotte, NC.

Nature of Requirement: HUD's regulation at 24 CFR 941.606(n)(1)(ii) requires public housing agencies (PHAs) to certify that they will use an open and competitive process to select its partners. The provision requires that ''if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 25, 2011.

Reason Granted: The seamless assignment of the Master Developer Agreement to Laurel Street would allow the project to move forward with no delays and no negative impact on the project. HUD therefore found good cause to waive 24 CFR 941.606(n)(1)(ii), which allowed the Charlotte Housing Authority to select Laurel Street without a competitive process. HUD authorizes this selection pursuant to the provisions of 24 CFR 85.36(d)(4)(i)(C), which allows procurement by non-competitive proposal if authorized by the awarding agency.

Contact: Dominique Blom, Deputy Assistant Secretary, Office of Public Housing Investments, Office and Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 1430, Washington, DC 20410, telephone (202) 402–8500.

• *Regulation:* 24 CFR 941.606(n)(1)(ii).

Project/Activity: Preserve at Fairground Village, Gulfport, MS.

Nature of Requirement: HUD's regulation at 24 CFR 941.606(n)(1)(ii) requires PHAs to certify that they will use an open and competitive process to select its partners. The provision requires that ''if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 25, 2011.

Reason Granted: Mississippi Regional Housing Authority No. VIII submitted an independent cost estimate for Preserve at Fairground Village prepared by Lucius Cook, Estimator. The estimate totaled $3,360,068. The South Mississippi Housing and Development Corporation also submitted the construction contract costs with Landmark Construction Services, providing a fixed price of $2,799,300. As the Landmark Construction Services contract cost was below that of the independent cost estimate, HUD's condition is satisfied, and the waiver was granted.

Contact: Dominique Blom, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 1430, Washington, DC 20410, telephone (202) 402–8500.

• *Regulation:* 24 CFR 941.606(n)(1)(ii).

Project/Activity: Nannie Helen Burroughs, District of Columbia (DC).

Nature of Requirement: HUD's regulation at 24 CFR 941.606(n)(1)(ii) requires PHAs to certify that they will use an open and competitive process to select its partners. The provision requires that ''if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants

to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids.''

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: December 12, 2011.

Reason Granted: In March 2006, DCHA entered into a Memorandum of Understanding with the DC's Office of the Deputy Mayor for Planning and Economic Development (DMPED) to create a Master Plan for the Lincoln Heights community. In December 2006, the DC Council approved the Master Plan and DC issued a request for proposal to develop off-site replacement units. The company, A. Wash and Associates, Inc., responded and proposed development of property it owned at 4800 Nannie Helen Burroughs, NE., plus adjacent land owned by the District. The proposed project was approved by DC and awarded a development contract. HUD reviewed, and acknowledged, the District of Columbia Housing Authority's (DCHA) decision to procure Wash/Charlie May, LLC through a noncompetitive proposal, as permitted under 24 CFR 85.36(d)(4). As a result of this action, DCHA cannot submit the required certifications and assurances that it will use open and competitive process to select its partners, as required under 24 CFR 941.606(n)(1)(ii), as part of its mixed-finance proposal for 4800 Nannie Helen Burroughs. HUD therefore waived 24 CFR 941.606(n)(1)(ii) for the limited purpose of selecting Wash/Charlie May, LLC as the developer.

Contact: Dominique Blom, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 1430, Washington, DC 20410, telephone (202) 402–8500.

• *Regulation:* 24 CFR 982.503(d) and 982.505(c)(3).

Project/Activity: Enterprise Housing Authority (EHA), Enterprise, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(d) states that HUD may consider and approve a public housing agency's establishment of a payment standard lower than the basic range, but that HUD will not approve a lower payment standard if the family share for more than 40 percent of participants in the agency's voucher program exceeds 30 percent of adjusted monthly income. HUD's regulation at 24 CFR 982.505(c)(3) states that, if the amount on the payment standard schedule is decreased during the term of the housing assistance payments (HAP) contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning on the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 19, 2011.

Reason Waived: This waiver was granted because these cost-saving measures would enable the EHA to manage its Housing Choice Voucher program within allocated budget authority and avoid the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Anasco Public Housing Authority (APHA), Anasco, PR.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) states that, if the amount on the payment standard schedule is decreased during the term of the housing assistance payments (HAP) contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning on the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 29, 2011.

Reason Waived: This waiver was granted because this cost-saving measure would enable the APHA to manage its Housing Choice Voucher program within allocated budget authority and avoid the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Lumberton Housing Authority (LHA), Lumberton, NC.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) states that, if the amount on the payment standard schedule is decreased during the term of the housing assistance payments (HAP) contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning on the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 20, 2011.

Reason Waived: This waiver was granted because this cost-saving measure would enable the LHA to manage its Housing Choice Voucher program within allocated budget authority and avoid the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Howard County Housing Commission (HCHC), Columbia, MD.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 22, 2011.

Reason Waived: The participant, who is disabled, requires an exception payment standard to move to a smoke-free building. The health care provider confirmed the need for this participant to move to such a building. To provide this reasonable accommodation so the client could move and pay no more than 40 percent of her adjusted income toward the family share, the HCHC was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Franklin County Regional Housing and Redevelopment Authority (FCRHRA), Franklin County, MA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 29, 2011.

Reason Waived: The participant, who is disabled, requires an exception payment standard to move to a first-floor unit in a smoke-free building. The health care provider confirmed the need for this participant to move to this unit. To provide this reasonable accommodation so the client could be assisted in a new unit and pay no more than 40 percent of her adjusted income toward the family share, the FCRHRA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: Detroit Housing Commission (DHC), Detroit, MI.

Nature of Requirement: HUD's regulation at 24 CFR 983.51 requires competitive selection of owner proposals for project-based voucher (PBV) assistance unless the units were competitively selected under a similar competitive process as described in the regulation.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 30, 2011.

Reason Waived: The project, East Jefferson Affordable Assisted Living, is part of the East Jefferson Neighborhood Project. The Project will be part of an integrated continuum of affordable senior housing and service programs in the core city area which currently has limited coordinated service delivery. The waiver was granted because there is a federal investment of $4.5 million of the city's HOME funds that were competitively awarded and should be protected.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Bristow Housing Authority (BHA), Bristow, OK.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 6, 2011.

Reason Waived: Due to circumstances beyond the BHA's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011. HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Michigan State Housing Development Authority (MSHDA), Detroit, MI.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 6, 2011.

Reason Waived: Due to circumstances beyond the MSHDA's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: River Rouge Housing Authority (RRHA), River Rouge, MI.

Nature of Requirement: 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 6, 2011.

Reason Waived: Due to circumstances beyond the RRHA's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011. HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Broken Bow Housing Authority (BBHA), Broken Bow, OK.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 7, 2011.

Reason Waived: Due to circumstances beyond the BBHA's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011. HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: McAlester Housing Authority (MHA), McAlester, OK.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 13, 2011.

Reason Waived: Due to circumstances beyond the MHA's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011. HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Lawton Housing Authority (LHA), Lawton, OK.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 14, 2011.

Reason Waived: Due to circumstances beyond the LHA's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011. HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Detroit Housing Commission (DHC), Detroit, MI.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year. HUD therefore granted the waiver.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: October 25, 2011.

Reason Waived: Due to circumstances beyond the DHC's control it was unable to submit its SEMAP certification by the deadline of August 29, 2011. HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Housing Authority of Calvert County, Charles County Housing Authority, Elkton Housing Authority, MD.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: November 2, 2011.

Reason Waived: These housing authorities with fiscal year end dates of June 30th were affected by Tropical Storm Irene which hit Maryland on August 28, 2011. These agencies had power outages, flooding and numerous fallen trees. Consequently, they were unable to submit their SEMAP certifications by the deadline of August 29, 2011, and HUD therefore granted the waiver.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and

Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

[FR Doc. 2012–6050 Filed 3–12–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–GAAR–0228–9686: 9924–PYS]

Notice of Public Meeting for the National Park Service (NPS) Alaska Region's Subsistence Resource Commission (SRC) Program

AGENCY: National Park Service, Interior.

SUMMARY: The Gates of the Arctic National Park SRC will meet to develop and continue work on NPS subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting to be announced in the **Federal Register**.

Public Availability of Comments: This meeting is open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. This meeting will be recorded and meeting minutes will be available upon request from the park superintendent for public inspection approximately six weeks after the meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If the meeting date and location are changed, a notice will be published in local newspapers and announced on local radio stations prior to the meeting date. SRC meeting locations and dates may need to be changed based on inclement weather or exceptional circumstances.

Gates of the Arctic National Park SRC Meeting Date and Location: The Gates of the Arctic National Park SRC will meet in Anaktuvuk Pass, Alaska, on Wednesday, April 18, 2012, and Thursday, April 19, 2012. Each day the meeting will start at 9 a.m. and conclude at 5 p.m. or until business is completed.

For Further Information on the Lake Clark National Park SRC Meeting Contact: Greg Dudgeon, Superintendent, or Marcy Okada, Subsistence Manager, at (907) 457–5752 or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603. If you are interested in applying for Gates of the Arctic National Park SRC membership, contact the Superintendent at 4175 Geist Road, Fairbanks, AK 99709, or visit the park Web site at: *http://www.nps.gov/gaar/contacts.htm.*

Proposed SRC Meeting Agenda

The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum.
2. Welcome and Introductions.
3. Administrative Announcements.
4. Approve Agenda.
5. Approval of Minutes.
6. SRC Purpose/Membership.
7. Public and Other Agency Comments.
8. Old Business.
   a. Subsistence Collections and Uses of Shed or Discarded Animal & Plants Environmental Assessment Update.
   b. SRC Recommendations.
9. New Business.
10. Federal Subsistence Board Updates.
11. Alaska Board of Game Updates.
12. National Park Service Reports.
   a. Superintendent Updates.
   b. Subsistence Manager Updates.
   c. Resource Management Updates.
   d. Ranger Updates.
13. Public and Other Agency Comments.
14. SRC Work Session.
15. Select Time and Location for Next Meeting.
16. Adjourn Meeting.

Debora R. Cooper,

Associate Regional Director, Resources and Subsistence, Alaska Region.

[FR Doc. 2012–5908 Filed 3–12–12; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for Areas Designated by Act of Congress, has been submitted to the Office of Management and Budget (OMB) for review and approval. The information collection request describes the nature of the information collection and the expected burden and cost. This information collection activity was previously approved by OMB and assigned control number 1029–0111.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by April 12, 2012, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, by telefax at (202) 395–5806 or via email to *OIRA_Docket@omb.eop.gov.* Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 203–SIB, Washington, DC 20240, by telefax to (202) 219–3276, or by email to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.* You may also review this information collection request on the Internet by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval of the collection of information contained in 30 CFR part 761—Areas Designated by Act of Congress. OSM is requesting a 3-year term of approval for this 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

number for this collection of information is 1029–0111. Responses are required to obtain a benefit for this collection.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments for these collections of information was published on October 28, 2011 (76 FR 66962). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR Part 761—Areas Designated by Act of Congress.

OMB Control Number: 1029–0111.

Summary: OSM and State regulatory authorities use the information collected under 30 CFR Part 761 to ensure that persons planning to conduct surface coal mining operations on the lands protected by § 522(e) of the Surface Mining Control and Reclamation Act of 1977 have the right to do so under one of the exemptions or waivers provided by this section of the Act.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 23 applicants for certain surface coal mine permits and the corresponding State regulatory authorities.

Total Annual Responses: 194.

Total Annual Burden Hours: 880.

Total Annual Non-Hour Burden Costs: $3,420.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the individual listed in **ADDRESSES**. Please refer to OMB control number 1029–0111 in all correspondence.

Before including your address, phone number, address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 6, 2012.

Andrew F. DeVito,

Chief, Division of Regulatory Support.

[FR Doc. 2012–5945 Filed 3–12–12; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Agency Information Collection Activities: Proposed Collection, Comments Requested; Status of COPS Grant Implementation Facsimile

ACTION: 60–Day Notice of Information Collection Under Review.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The revision of a previously approved information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until May 14, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Danielle Ouellette, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection; comments requested.

(2) *Title of the Form/Collection:* Status of Grant Implementation Template.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Under the Violent Crime and Control Act of 1994, the U.S. Department of Justice COPS Office would require the completion of the Status of COPS Grant Implementation Facsimile from law enforcement agencies if they have yet to send in their current Federal Financial Report (SF–425). This is to ensure that these agencies are planning on implementing their COPS grant program and/or project that they had previously been awarded.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 200 respondents annually will complete the form within 0.1 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 20 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–5942 Filed 3–12–12; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0093]

Agency Information Collection Activities: Extension of a Currently Approved Collection; Comments Requested COPS Extension Request Form

ACTION: 60-Day Notice of Information Collection Under Review:

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), will be submitting the following information collection request

to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The revision of a currently approved information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until May 14, 2012 This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Danielle Ouellette, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Extension Request Form.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Under the Violent Crime and Control Act of 1994, the U.S. Department of Justice COPS Office would require the completion of the Extension Request Form from law enforcement agencies in order to ensure that those agencies whose COPS grant is set to expire in the near future has the opportunity to request a no-cost extension prior to the grant expiration date if additional time is needed to complete their program requirements.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that approximately 2,500 respondents annually will complete the form within 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,250 total annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–5941 Filed 3–12–12; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on March 6, 2012, a proposed Consent Decree in *United States* v. *Spectro Alloys Corporation,* Civil Action No. 0:12–CV–00594, was lodged with the United States District Court for the District of Minnesota.

The Consent Decree would resolve claims for injunctive relief and the assessment of civil penalties asserted by the United States against Spectro Alloys Corporation pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b).

Defendant processes aluminum scrap and dross to produce various secondary aluminum products, a process that results in emissions of regulated air pollutants, including dioxins and furans, hydrogen chloride, particulate matter, and hydrocarbons. The United States' complaint, filed concurrently with the Consent Decree, alleges that Defendant violated Section 112 of the Clean Air Act, 42 U.S.C. 7412; the National Emission Standards for Hazardous Air Pollutants (''NESHAP'') for Secondary Aluminum Production, codified at 40 CFR Part 63, Subparts A and RRR; and related provisions of Minnesota law at its aluminum production facility in Rosemount, Minnesota. Specifically, the complaint alleges that Defendant failed to comply with applicable emission standards; to design, install, and inspect adequate capture and collection systems; and to correctly monitor and comply with applicable operating parameters.

The Consent Decree would require Defendant to install two fabric filters to capture and treat facility emissions; to conduct new emission performance tests and tests of the facility capture and collection system; to submit revised operation, maintenance and monitoring plan documents; and to apply for a new operating permit at its facility. The Consent Decree would also provide for a $600,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comment relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to United States v. Spectro Alloys Corporation, No. 0:12–CV–00594 (D. Minn.), D.J. Ref. No. 90–5–2–1–09268/1.

During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to Environment and Natural Resources Division, Environmental Enforcement Section, fax no. (202) 514–0097, phone confirmation number (202) 514–1547, email *EESCDCopy.ENRD@usdoj.gov.* In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $14.50 for a copy of the complete Consent Decree (25 cents per page reproduction cost), payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–5990 Filed 3–12–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Emergency Review: Comment Request Veterans' Retraining Assistance Program

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) has submitted the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, ''Veterans' Retraining Assistance Program,'' to the Office of Management and Budget (OMB) for review and clearance utilizing emergency review procedures in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13.

DATES: OMB approval has been requested by March 20, 2012. Submit comments on or before March 16, 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* 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, Employment and Training 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: 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 ETA seeks approval to collect individual applicant data for the Veterans Retraining Assistance Program (VRAP) as part of the VOW to Hire Heroes Act of 2011 (Pub. L. 112–56), which was signed into law on November 21, 2011. This benefit directs the Department of Veterans Affairs (VA), in cooperation with the DOL, to pay for up to 12 months of a training program in a high demand occupation for unemployed eligible veterans. The program is to serve up to 45,000 veterans in fiscal year 2012, beginning July 1, 2012, and up to 54,000 veterans from October 1, 2012, through March 31, 2014.

The VRAP provides the benefit to veterans who fulfill the following eligibility criteria: As of date of application, is at least 35 years old and less than 60; discharged from active duty under conditions other than dishonorable; is unemployed as of date of application; is not eligible to receive other educational assistance from the VA; is not in receipt of compensation for a service-connected disability rated totally disabling by reason of unemployability; was not and is not enrolled in any Federal or State job training program within the previous 180 days; and, the application must be submitted not later than October 1, 2013.

The VA is responsible for determining the following eligibility criteria: Discharged from active duty under conditions other than dishonorable; is not eligible to receive other educational assistance from the VA; is not in receipt of compensation for a service-connected disability rated totally disabling by reason of unemployability. The VA will be collecting information required for their eligibility criteria through the ''Application for VA Educational Benefits'' (OMB Control Number 2900–0154, VA Form 22–1990). The DOL is required to determine whether each veteran applying for the program is between 35 and 60 years old, is unemployed as of the date of the application, has not and is not enrolled in a Federal or state job training program within 180 days of the application, and has applied for the program no later than October 1, 2013. The DOL does not currently have an approved OMB information collection for determining eligibility under the statute. The DOL is proposing to determine its eligibility requirements by collecting individual applicant data. The data will be linked to the VA's Veterans On-line Application (VONAPP, VA Form 22–1990) to complete the application. The VA will transmit a report to the DOL about the completion status of the veterans, so that the DOL can make contact with the veteran to offer employment services.

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 ETA seeks OMB approval under the PRA emergency clearance process for the individual applicant data collection, because the VRAP program has a required start date of July 1, 2012. The application system must be in place well before the program start date in order to provide program outreach to veterans and technical assistance to DOL grantees. This requires an expedited process for building a system for collecting individual data that has the capacity to serve up to 45,000 veterans between July 1, 2012 and September 30, 2012. Failure to be able to collect individual data would jeopardize the ability for applicants to complete an application in time to begin educational services by the statutory start date of July 1, 2012. The application collects eligibility information required by the statute. Inability to collect individual applicant information will also jeopardize the ability of the DOL to offer employment services the statute requires.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by March 16, 2012. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201202–1205–005. 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: Employment and Training Administration.

Title of Collection: Veterans' Retraining Assistance Program.

OMB ICR Reference Number: 201202–1205–005.

Type of Review: New collection (Request for a new OMB Control Number).

Requested Duration of Authorization: Six (6) months from date of approval.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 100,000.

Frequency of Collection: Once.

Total Estimated Number of Responses: 100,000.

Estimated Time per Response: Five (5) minutes.

Total Estimated Annual Burden Hours: 8,333.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 7, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–5965 Filed 3–12–12; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,485]

RR Donnelley, Inc., Including On-Site Leased Workers From Manpower and Kelly Services, Bloomsburg, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated February 25, 2012, the petitioners requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of RR Donnelley, Inc., including on-site leased workers from Manpower and Kelly Services, Bloomsburg, Pennsylvania (subject firm). The Department's Notice of determination was issued on February 3, 2012 and published in the **Federal Register** on February 21, 2012 (77 FR 9973).

The workers engage in activities related to the production of hard and soft cover books. The initial determination was based on the findings that worker separations were not attributable to increased imports by the subject firm or its declining customers of articles like or directly competitive with hard and soft cover books or a shift to/acquisition from a foreign country by the workers' firm in the production of articles like or directly competitive with hard and soft cover books.

In the request for reconsideration, the petitioners supplied new information regarding the subject firm's operations overseas and possible import competition.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements to apply for TAA.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 1st day of March, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–5925 Filed 3–12–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,114]

Plumchoice, Inc., Including On-Site Leased Workers From Balance Staffing, Insight Global Staffing, and Technisource, Scarborough, ME; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 3, 2012, applicable to workers of PlumChoice, Inc., including on-site leased workers from Balance Staffing, Insight Global Staffing, and Technisource, Scarborough, Maine. The workers are engaged in activities related to sales and technical support services. The notice was published in the **Federal Register** on February 21, 2012 (76 FR 9971).

At the request of the Maine State agency, the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Technisource were employed on-site at the Scarborough, Maine location of PlumChoice, Inc. The Department has determined that these workers were sufficiently under the control of PlumChoice, Inc. to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased customer imports of sales and technical support services.

Based on these findings, the Department is amending this certification to include workers leased from Technisource working on-site at the Scarborough, Maine location of the subject firm.

The amended notice applicable to TA–W–81,114 is hereby issued as follows:

''All workers from PlumChoice, Inc., including on-site leased workers from Balance Staffing, Insight Global Staffing, and Technisource, Scarborough, Maine, who became totally or partially separated from employment on or after February 13, 2010, through February 3, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.''

Signed at Washington, DC this 28th day of February 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–5923 Filed 3–12–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *February 20, 2012 through February 24, 2012.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially

separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1- year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,030	Calisolar Inc., Certified Green Technologies, Spherion Staffing and Dewinter Group.	Sunnyvale, CA	February 13, 2010.
81,141	Sewteam, Inc.	Dallas, TX	February 13, 2010.
81,141A	Sewteam, Inc.	Corsicana, TX	February 13, 2010.
81,141B	Sewteam, Inc.	Ferris, TX	February 13, 2010.
81,173	Reichhold, Inc, Express Employment and Securitas Security Services.	Azusa, CA	February 13, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,042	Verizon Data Services, LLC, GTE Wireless, Sales Lifecycle and Ordering, Contractors and Remote Workers.	Greenville, SC	February 13, 2010.
81,056	Ball Metal Beverage Container Corporation, Ball Packaging Corporation, leased workers from Kelly Services.	Torrance, CA	February 13, 2010.
81,269	Cummins Filtration, A Subsidiary of Cummins, Inc., Allegis and Manpower.	Cookeville, TN	December 11, 2011.
81,284	BASF Corporation, Water Solutions, Nextsource, Inc.	Suffolk, VA	January 30, 2011.
81,286	CHF Industries, Inc.	Fall River, MA	January 31, 2011.
81,295	Classic Industries, Inc., Texas Division, Adecco and Its Quest	El Paso, TX	February 1, 2011.
81,301	Massachusetts Mutual Life Insurance Company, USIG B & T Solutions, Post Issue Testing Services.	Springfield, MA	January 24, 2011.
81,301A	Massachusetts Mutual Life Insurance Company, USIG B & T and Technology Solutions, Post Issue Testing Services.	Enfield, CT	January 24, 2011.
81,302	American Technical Ceramics New York Office, AVX Corporation.	Huntington Station, NY	February 6, 2011.
81,307	Avon Products, Inc., Randstad USA	Springdale, OH	April 9, 2012.
81,315	Tandy Brands Accessories, Inc	Los Angeles, CA	February 7, 2011.
81,318	Cooper Standard Automotive, Bowling Green Seal Plant, Adecco Employment Services & Career Integrations.	Bowling Green, OH	February 6, 2011.
81,322	Steiff North America, Inc., On-site leased workers from Accountemps and Office Team.	Raynham, MA	February 9, 2011.
81,328	Wellpoint, Inc., Utilization Management Unit	Denver, CO	February 13, 2011.
81,334	SWM International, Inc.	Spotswood, NJ	February 14, 2011.
81,345	Rain Bird Corporation, On-site leased workers from Select Staffing.	Azusa, CA	February 16, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,132	Narrow Fabric Industries	West Reading, PA	December 4, 2011.
81,312	Seattle-Snohomish Mill Company, Inc., Boitano Pacific Trucking Company and Pacific Log Scaling.	Snohomish, WA	February 3, 2011.

Negative Determinations For Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,228	Schlaadt Plastics Limited, Executive Personnel Group	New Bern, NC.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
80,513	Centurion Medical Products Corporation, Customer Service Center.	Jeanette, PA.	
81,018	Kandy Kiss of California, Inc.	Sylmar, Van Nuys, CA.	
81,069	Americal Corporation, Qualified Staffing	Henderson, NC.	
81,081	RR Donnelley, Subsidiary fo RR Donnelley & Sons, Financial Services Division.	Detroit, MI.	
81,129	Job 1 USA Security	Albany, GA.	
81,216	Parkersburg Bedding, LLC	Parkersburg, WV.	

Determinations Terminating Investigations Of Petitions For Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
81,061	Emhart Teknologies, Emhart—Parker Kalon Plant, A Stanley Black and Decker Company.	Campbellsville, KY.	

I hereby certify that the aforementioned determinations were issued during the period of *February 20, 2012 through February 24, 2012.* These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at 888–365–6822.

Dated: March 2, 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–5924 Filed 3–12–12; 8:45 am]

BILLING CODE 4510–FN–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 12–03]

Sunshine Act Meeting; Millennium Challenge Corporation Board of Directors; March 22, 2012

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 3 p.m. to 5 p.m., Wednesday, March 22, 2012.

PLACE: Department of State, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Melvin F. Williams, Jr., Vice President, General Counsel and Corporate Secretary via email at *corporatesecretary@mcc.gov* or by telephone at (202) 521–3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the ''Board'') of the Millennium Challenge Corporation (''MCC'') will hold a meeting to discuss Candidate Country Report for FY2012, the Niger Threshold Program, the Zambia Compact and an update on Malawi. The agenda items are expected to involve the consideration of classified information and the meeting will be closed to the public.

Dated: March 7, 2012.

Melvin F. Williams, Jr.,

VP/General Counsel and Corporate Secretary, Millennium Challenge Corporation.

[FR Doc. 2012–5947 Filed 3–9–12; 11:15 am]

BILLING CODE 9211–03–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or

confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* April 2, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subject of American Studies submitted to the America's Media Makers grant program in the Division of Public Programs, at the January 11, 2012 deadline.

2. *Date:* April 3, 2012.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications on the subject of New World Archaeology submitted to the Collaborative Research grant program in the Division of Research Programs, at the December 8, 2011 deadline.

3. *Date:* April 3, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subject of Historic Sites and Regions submitted to the America's Historical and Cultural Organizations grant program in the Division of Public Programs, at the January 11, 2012 deadline.

4. *Date:* April 4, 2012.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications on the subjects of Philosophy, Religion, and History of Science submitted to the Collaborative Research grant program in the Division of Research Programs, at the December 8, 2011 deadline.

5. *Date:* April 5, 2012.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for The Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access, at the December 1, 2011 deadline.

6. *Date:* April 5, 2012.
Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications on the subject of Social Sciences submitted to the Collaborative Research grant program in the Division of Research Programs, at the December 8, 2011 deadline.

7. *Date:* April 10, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subject of Youth Programs and World Cultures submitted to the America's Historical and Cultural Organizations grant program in the Division of Public Programs, at the January 11, 2012 deadline.

8. *Date:* April 10, 2012.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for The Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access, at the December 1, 2011 deadline.

9. *Date:* April 11, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subjects of Anthropology and Ethnic History submitted to the America's Historical and Cultural Organizations grant program in the Division of Public Programs, at the January 11, 2012 deadline.

10. *Date:* April 13, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subject of United States History submitted to the America's Media Makers grant program in the Division of Public Programs, at the January 11, 2012 deadline.

11. *Date:* April 16, 2012.
Time: 9 a.m. to 5 p.m.
Room: M–07.
Program: This meeting will review applications for The Landmarks of American History and Culture Workshops grant program, submitted to the Division of Education Programs, at the March 1, 2012 deadline.

12. *Date:* April 17, 2012.
Time: 9 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for the Challenge Grants for Two-Year Colleges grant program, submitted to the Office of Challenge Grants at the February 2, 2012 deadline.

13. *Date:* April 17, 2012.
Time: 9 a.m. to 5 p.m.
Room: M–07.
Program: This meeting will review applications for The Landmarks of American History and Culture Workshops grant program, submitted to the Division of Education Programs, at the March 1, 2012 deadline.

14. *Date:* April 17, 2012.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for The National Digital Newspaper grant program, submitted to the Division of Preservation and Access at the January 17, 2012 deadline.

15. *Date:* April 18, 2012.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for the Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities at the January 24, 2012 deadline.

16. *Date:* April 18, 2012.
Time: 9 a.m. to 5 p.m.
Room: M–07.
Program: This meeting will review applications for The Landmarks of American History and Culture Workshops grant program, submitted to the Division of Education Programs, at the March 1, 2012 deadline.

17. *Date:* April 18, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subject of World Cultures submitted to the America's Media Makers grant program in the Division of Public Programs, at the January 11, 2012 deadline.

18. *Date:* April 19, 2012.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for the Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities at the January 24, 2012 deadline.

19. *Date:* April 19, 2012.
Time: 9 a.m. to 5 p.m.
Room: M–07.
Program: This meeting will review applications for The Landmarks of American History and Culture Workshops grant program, submitted to the Division of Education Programs, at the March 1, 2012 deadline.

20. *Date:* April 19, 2012.
Time: 9 a.m. to 5 p.m.
Room: 421.
Program: This meeting will review applications on the subject of Art and Music Projects submitted to the America's Historical and Cultural Organizations grant program in the Division of Public Programs, at the January 11, 2012 deadline.

21. *Date:* April 19, 2012.
Time: 9 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for the Challenge Grants for Two-Year Colleges grant program, submitted to the Office of Challenge Grants at the February 2, 2012 deadline.

22. *Date:* April 23, 2012.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for the Summer Seminars and Institutes grant program, submitted to the Division of Education Programs, at the March 1, 2012 deadline.

23. *Date:* April 24, 2012.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for the Summer Seminars and Institutes grant program, submitted to the Division of Education Programs at the March 1, 2012 deadline.

24. *Date:* April 25, 2012.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for the Summer Seminars and Institutes grant program, submitted to the Division of Education Programs at the March 1, 2012 deadline.

25. *Date:* April 25, 2012.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for the Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities at the January 24, 2012 deadline.

26. *Date:* April 26, 2012.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for the Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities at the January 24, 2012 deadline.

27. *Date:* April 26, 2012.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for the Summer Seminars and Institutes grant program, submitted to the Division of Education Programs at the March 1, 2012 deadline.

28. *Date:* April 30, 2012.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for the Summer Seminars and Institutes grant program, submitted to the Division of Education Programs at the March 1, 2012 deadline.

Lisette Voyatzis,

Advisory Committee Management Officer.

[FR Doc. 2012–5961 Filed 3–12–12; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0057]

Bioassay at Uranium Mills

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing for public comment draft regulatory guide (DG), DG–8051, ''Bioassay at Uranium Mills.'' This guide describes a bioassay program acceptable to the NRC staff for uranium mills and applicable portions of uranium conversion facilities where the possibility of exposure to yellowcake dust exists, including exposure conditions with and without the use of respiratory protection devices.

DATES: Submit comments by May 11, 2012. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0057. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0057. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: R. A. Jervey, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–251–7404; or email *Richard.Jervey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0057 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0057.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft regulatory guide is available under ADAMS accession No. ML110960333. The regulatory analysis may be found in ADAMS under accession No. ML110960341.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

II. Further Information

The NRC is issuing for public comment a draft guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, ''Bioassay at Uranium Mills,'' is temporarily identified by its task number, DG–8051, which should be mentioned in all related correspondence. DG–8051 is proposed Revision 2 of Regulatory Guide 8.22, previously revised in August 1988.

This guide is being updated to incorporate changes made in 10 CFR Part 20 since Regulatory Guide 8.22, Revision 1 was issued. Comments related to the operation of in-situ recovery mills and associated considerations for bioassay are of particular interest.

Dated at Rockville, Maryland, this 6th day of March, 2012.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2012–6001 Filed 3–12–12; 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: NRC will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on April 16–17, 2012. A sample of agenda items to be discussed during the public session includes: (1) Fundamental concepts in patient advocacy; (2) electronic signatures for documents that are required to be signed in accordance with U.S. Nuclear Regulatory Commission (NRC) regulations; (3) medical-related events from fiscal year 2011; (4) an update on proposed regulatory changes for Permanent Implant Brachytherapy programs; (5) the status of the Commission Paper on data collection for Patient Release; (6) a status update on 10 CFR Part 35 rulemaking; (7) medical use of radium-223 chloride; (8) an update on strontium breakthrough with rubidium-82 generators from NRC and FDA perspectives; and (9) half-life activity as a function of solar activity. The agenda is subject to change. The current agenda and any updates will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/agenda* or by emailing Ms. Sophie Holiday at the contact information below.

Purpose: Discuss issues related to 10 CFR Part 35 Medical Use of Byproduct Material.

Date and Time for Closed Session: April 16, 2012, from 8 a.m. to 10:45 a.m. This session will be closed so that ACMUI members can prepare for an upcoming Commission briefing.

Date and Time for Open Sessions: April 16, 2012, from 10:45 a.m. to 5 p.m. and April 17, 2012, from 8 a.m. to 12:30 p.m.

Address for Public Meeting: U.S. Nuclear Regulatory Commission, Two White Flint North Building, Room T2–

B3, 11545 Rockville Pike, Rockville, Maryland 20852.

Public Participation: Any member of the public who wishes to participate in the meeting in person or via phone should contact Ms. Holiday using the information below. The meeting will also be webcast live: *http://www.nrc.gov/public-involve/public-meetings/webcast-live.html.*

Contact Information: Sophie J. Holiday, email: *sophie.holiday@nrc.gov,* telephone: (301) 415–7865.

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. Holiday at the contact information listed above. All submittals must be received by April 9, 2012, 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 meeting, at the discretion of the Chairman.

3. The draft transcript will be available on ACMUI's Web site (*http://www.nrc.gov/reading-rm/doc-collections/acmui/tr/*) on or about May 18, 2012. A meeting summary will be available on ACMUI's Web site (*http://www.nrc.gov/reading-rm/doc-collections/acmui/meeting-summaries/*) on or about May 29, 2012.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Holiday of their planned attendance.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations,* Part 7.

Dated: March 7, 2012.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2012–5998 Filed 3–12–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission, [NRC–2012–0002].

DATE: Weeks of March 12, 19, 26, April 2, 9, 16, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of March 12, 2012

There are no meetings scheduled for the week of March 12, 2012.

Week of March 19, 2012—Tentative

There are no meetings scheduled for the week of March 19, 2012.

Week of March 26, 2012—Tentative

Tuesday, March 27, 2012

9 a.m.—Briefing on License Renewal for Research and Test Reactors (Public Meeting) (Contact: Jessie Quichocho, 301–415–0209).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of April 2, 2012—Tentative

Tuesday April 3, 2012

9:30 a.m.—Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Cindy Flannery, 301–415–0223).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of April 9, 2012—Tentative

Tuesday, April 10, 2012

9 a.m.—Briefing on the Final Report of the Blue Ribbon Commission on America's Nuclear Future (Public Meeting) (Contact: Alicia Mullins, 301–492–3351).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of April 16, 2012—Tentative

There are no meetings scheduled for the week of April 16, 2012.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by email at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: March 8, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–6148 Filed 3–9–12; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7016; NRC–2009–0157]

General Electric-Hitachi Global Laser Enrichment LLC, Commercial Laser-Based Uranium Enrichment Facility, Wilmington, North Carolina; NUREG–2120

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of safety evaluation report.

SUMMARY: The Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of a license to General Electric-Hitachi Global Laser Enrichment LLC (GLE or the applicant) to authorize construction of a laser-based uranium enrichment facility and possession and use of byproduct material, source material, and special nuclear material (SNM). This proposed facility is proposed to be located in Wilmington, North Carolina. The NRC prepared a Safety Evaluation Report (SER) in support of this license application.

ADDRESSES: Please refer to Docket ID NRC–2009–0157 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly-available, using the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0157. Address

questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Timothy C. Johnson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, Maryland 20852; telephone: (301) 492–3121; email: *Timothy.Johnson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated June 26, 2009, the applicant submitted to the NRC an application requesting a license, under Title 10 of the *Code of Federal Regulations* Parts 30, 40, and 70, to possess and use byproduct material, source material, and SNM in a laser-based uranium enrichment facility. Revisions to the application were submitted on March 23, 2010; June 25, 2010; December 16, 2010; March 29, 2011; August 1, 2011; August 12, 2011; October 14; and November 11, 2011. The Applicant proposes that the facility be located in Wilmington, North Carolina.

The NRC staff prepared the SER in support of this license application. The SER discusses the results of the safety review performed by the staff in the following areas: general information, organization and administration, Integrated Safety Analysis (ISA) and ISA summary, radiation protection, nuclear criticality safety, chemical process safety, fire safety, emergency management, environmental protection, decommissioning, management measures, material control and accounting, physical protection, physical security of the transportation of SNM of low strategic significance, human factors engineering, and electrical power and instrumentation and control systems.

II. Further Information

The SER is available online in the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS Accession Number for the June 26, 2009, license application is ML091871003 and ML092110280. Revisions of the application are available at ADAMS Accession Numbers ML100910053, ML101810134, ML103610078, ML103610080, ML110960272, ML112140138, ML112290297, ML112990562, and ML11326A177. The ADAMS Accession Number for the February 2012 SER is ML12060A007.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 800–397–4209, 301–415–4737, or via email to *pdr.resource@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 1st day of March, 2012.

For the U.S. Nuclear Regulatory Commission.

Marissa G. Bailey,

Deputy Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2012–6002 Filed 3–12–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29976; 812–13313]

Harris & Harris Group, Inc.; Notice of Application

March 7, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 23(a), 23(b) and 63 of the Act; under sections 57(a)(4) and 57(i) of the Act and rule 17d–1 under the Act permitting certain joint transactions otherwise prohibited by section 57(a)(4) of the Act; and under section 23(c)(3) of the Act for an exemption from section 23(c) of the Act.

SUMMARY OF THE APPLICATION: Harris & Harris Group, Inc. (''Applicant'' or ''Company'') requests an order that would permit Applicant to (a) issue restricted shares of its common stock (''Restricted Stock'') as part of the compensation package for certain participants in its Amended and Restated 2012 Equity Incentive Plan (the ''Plan''), (b) withhold shares of the Applicant's common stock or purchase shares of Applicant's common stock from participants to satisfy tax withholding obligations relating to the vesting of Restricted Stock or the exercise of options to purchase shares of Applicant's common stock (''Options''), and (c) permit participants to pay the exercise price of Options with shares of Applicant's common stock.

FILING DATES: The application was filed on July 11, 2006, and amended May 24, 2010, October 25, 2011, and February 29, 2012. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 2, 2012, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicant, 1450 Broadway, 24th Floor, New York, NY 10018.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Mary Kay Frech, Branch Chief, at (202) 551–6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

Applicant's Representations

1. Applicant is an internally managed venture capital company specializing in nanotechnology and microsystems that has elected to be regulated as a business development company (''BDC'') under the Act.[1] Since 2001, Applicant has

[1] Applicant was incorporated under the laws of the state of New York in August 1981. In 1995, Applicant elected to become a BDC. Section 2(a)(48) of the Act defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

made initial venture capital investments exclusively in nanotechnology and microsystems, which it sometimes refers to as ''tiny technology.'' Applicant considers a company to be a tiny technology company if the company employs or intends to employ technology that Applicant considers to be at the microscale or smaller and if the employment of that technology is material to its business plan. Shares of Applicant's common stock are traded on the Nasdaq Global Market under the symbol ''TINY.'' As of December 31, 2011, there were 31,000,601 shares of Applicant's common stock outstanding. As of that date, Applicant had 10 employees.

2. Applicant currently has a ten member board of directors (the ''Board'') of whom eight are not ''interested persons'' of Applicant within the meaning of section 2(a)(19) of the Act, and two are considered ''interested persons'' of Applicant. As of June 7, 2012, Applicant will have a nine member Board of whom eight will be non-interested persons of Applicant and one will be considered an interested person of Applicant.[2]

3. Applicant believes that, because the market for highly qualified investment professionals is highly competitive, Applicant's success depends on its ability to offer compensation packages to its professionals that are competitive with those offered by other venture capital firms and investment management businesses. Applicant states that the ability to offer equity-based compensation to its professionals, which both aligns employee behavior with shareholder interests and provides a retention tool, is vital to Applicant's future growth and success.

4. Effective May 4, 2006, Applicant adopted the Harris & Harris Group, Inc. 2006 Equity Incentive Plan (the ''2006 Plan''). Applicant has issued Options to participants under the 2006 Plan, all of whom were employees at the time of the grants, and as of December 31, 2011, there were 3,389,117 Options outstanding. Applicant has not issued any Restricted Stock pursuant to the 2006 Plan. Applicant proposes to amend and restate the 2006 Plan by adopting the Plan, which will supersede the 2006 Plan, subject to the issuance of the requested order. The Plan authorizes the issuance of Options to its officers and employees, and Restricted Stock to its directors, including non-employee directors (''Non-Employee Directors''), officers and employees (''Participants'').[3]

5. The Plan will authorize the issuance of shares of Restricted Stock subject to certain forfeiture restrictions. The restrictions may relate to continued employment or service as a director (lapsing either on an annual or other periodic basis or on a ''cliff'' basis, i.e., at the end of a stated period of time), the satisfaction of performance goals as stated in the Plan, or other restrictions deemed by the Required Majority[4] and the Compensation Committee[5] from time to time to be appropriate and in the best interests of Applicant and its stockholders. Unless otherwise determined by the Board, a Participant granted Restricted Stock will have all of the rights of a stockholder including, without limitation, the right to vote Restricted Stock and the right to receive dividends, including deemed dividends, thereon. Restricted Stock may not be transferred, pledged, hypothecated, margined, or otherwise encumbered by the Participant during the Restricted Period, except for disposition by will or intestacy. Except as the Board otherwise determines, upon termination of a Participant's employment or director relationship with the Company during the applicable restriction period, the Participant's Restricted Stock and any accrued but unpaid dividends that are then subject to restrictions shall generally be forfeited.[6]

6. Under the Plan, a maximum of twenty percent (20%) of Applicant's total shares of common stock issued and outstanding (as of the Effective Date)[7] will be available for awards under the Plan. Under the Plan, no more than fifty percent (50%) of the shares of stock reserved for the grant of awards under the Plan may be Restricted Stock awards at any time during the term of the Plan. Thus, the maximum amount of Restricted Stock that may be outstanding at any particular time will be ten percent of the Applicant's voting securities.[8] No more than 1,000,000 shares of common stock may be made subject to awards under the Plan to any Participant in any year.[9]

7. The Plan will be administered by the Compensation Committee and the Board will have the responsibility to ensure that the Plan is operated in a manner that best serves the interests of Applicant and its stockholders. Restricted Stock will be awarded to certain employees, officers and directors, including Non-Employee Directors, from time to time as part of the employees', officers' or directors' compensation based on their actual or expected performance and value to the Company. All awards of Restricted Stock to employees will be approved by the Required Majority. Awards of Restricted Stock to Non-Employee Directors will be made on the schedule described below.

8. Under the Plan, Non-Employee Directors will each receive a grant of up to 2,000 shares of Restricted Stock at the beginning of each one-year term of service on the Board, for which forfeiture restrictions will lapse as to one-third of such shares each year for three years. Each grant of Restricted Stock to Non-Employee Directors will be made pursuant to this schedule and will not be changed without Commission approval.

9. The Plan provides that the Company is authorized to withhold stock (in whole or in part) from any award of Restricted Stock granted in satisfaction of a Participant's tax obligations. In addition, as discussed more fully in the application, the exercise of Options will result in the recipient being deemed to have received compensation in the amount by which the fair market value of the shares of the Company's common stock, determined as of the date of exercise, exceeds the exercise price. Accordingly, Applicant requests relief to withhold shares of its common stock or purchase shares of its common stock from Participants to satisfy tax withholding obligations related to the vesting of Restricted Stock or the exercise of Options that were

[2] For purposes of the requested relief, Applicant will be granting Restricted Stock pursuant to the Plan to the individuals who are directors as of June 7, 2012, including the Applicant's chief executive officer, who will then be the sole interested director.

[3] Options will not be granted to Non-Employee Directors.

[4] Section 57(o) of the Act provides that the term ''required majority,'' when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a BDC's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

[5] The ''Compensation Committee'' is composed of ''non-employee directors'' within the meaning of rule 16b–3, and ''outside directors'' within the meaning of section 162(m) of the Internal Revenue Code of 1986, as amended.

[6] If any shares subject to an award granted under the Plan are forfeited, cancelled, exchanged or surrendered or if an award terminates or expires without an issuance of shares, those shares will again be available for awards under the Plan.

[7] Effective Date is defined in section 2(i) of the Plan as the date on which the Plan is approved by Applicant's stockholders.

[8] For purposes of calculating compliance with this limit, the Company will count as Restricted Stock all shares of its common stock that are issued under the Plan less any shares that are forfeited back to the Company and cancelled as a result of forfeiture restrictions not lapsing.

[9] If the Company does not receive the requested order to issue Restricted Stock, all shares granted under the Plan may be subject to Options. All Option awards will be issued in accordance with section 61 of the Act and will not be granted to Non-Employee Directors.

granted under the 2006 Plan or will be granted pursuant to the Plan. Applicant also requests an exemption to permit Participants to pay the exercise price of Options that were granted under the 2006 Plan or will be granted to them pursuant to the Plan with shares of the Company's common stock.

10. The Plan was approved on February 29, 2012, by the Compensation Committee and the Board, including the Required Majority. The Plan will be submitted for approval to the Company's stockholders, and will become effective upon such approval, subject to and following receipt of the requested order.

Applicant's Legal Analysis

Sections 23(a) and (b), Section 63

1. Under section 63 of the Act, the provisions of section 23(a) of the Act generally prohibiting a registered closed-end investment company from issuing securities for services or for property other than cash or securities are made applicable to BDCs. This provision would prohibit the issuance of Restricted Stock as a part of the Plan.

2. Section 23(b) of the Act generally prohibits a registered closed-end investment company from selling any common stock of which it is the issuer at a price below its current net asset value. Section 63(2) of the Act makes section 23(b) applicable to BDCs unless certain conditions are met. Because Restricted Stock that would be granted under the Plan would not meet the terms of section 63(2), sections 23(b) and 63 would prevent the issuance of Restricted Stock.

3. Section 6(c) provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes thereof, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an order pursuant to section 6(c) of the Act granting an exemption from the provisions of sections 23(a), 23(b) and 63 of the Act. Applicant states that the Plan would not violate the concerns underlying these sections, which include: (a) Preferential treatment of investment company insiders and the use of options and other rights by insiders to obtain control of the investment company; (b) complication of the investment company's structure that made it difficult to determine the value of the company's shares; and (c) dilution of shareholders' equity in the investment company. Applicant asserts that the Plan does not raise concerns about preferential treatment of Applicant's insiders because the Plan is a bona fide compensation plan of the type that is common among corporations generally. In addition, section 61(a)(3)(B) of the Act permits a BDC to issue to its directors, officers, employees, and general partners warrants, options, and rights to purchase the BDC's voting securities pursuant to an executive compensation plan, subject to certain conditions. Applicant states that, for reasons that are unclear, section 61 and its legislative history do not address the issuance by a BDC of restricted stock as incentive compensation. Applicant believes, however, that the issuance of Restricted Stock is substantially similar, for purposes of investor protection under the Act, to the issuance of warrants, options, and rights as contemplated by section 61. Applicant also asserts that the issuance of Restricted Stock would not become a means for insiders to obtain control of Applicant because the maximum amount of Restricted Stock that may be issued under the Plan at any one time will be ten percent of the outstanding shares of common stock of Applicant. Moreover, no Participant will be granted more than 25% of the shares of stock reserved for issuance under the Plan.

5. Applicant further states that the Plan will not unduly complicate Applicant's capital structure because equity-based incentive compensation arrangements are widely used among corporations and commonly known to investors. Applicant notes that the Plan will be submitted for approval to the Company's stockholders. Applicant represents that the proxy materials submitted to Applicant's stockholders will contain a concise ''plain English'' description of the Plan and its potential dilutive effect. Applicant also states that it will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Securities Exchange Act of 1934. Applicant further notes that the Plan will be disclosed to investors in accordance with the requirements of the Form N–2 registration statement for closed-end investment companies and pursuant to the standards and guidelines adopted by the Financial Accounting Standards Board for operating companies. Applicant also will comply with the disclosure requirements for executive compensation plans applicable to BDCs.[10] Applicant thus concludes that the Plan will be adequately disclosed to investors and appropriately reflected in the market value of Applicant's shares.

6. Applicant acknowledges that awards granted under the Plan may have a dilutive effect on the stockholders' equity per share in Applicant, but believes that effect would be outweighed by the anticipated benefits of the Plan to Applicant and its stockholders. Moreover, based on the manner in which the issuance of Restricted Stock pursuant to the Plan will be administered, the Restricted Stock will be no more dilutive than if Applicant were to issue only Options to Participants who are employees, as is permitted by section 61(a)(3) of the Act. Applicant asserts that it needs the flexibility to provide the requested equity-based compensation in order to be able to compete effectively with other venture capital firms for talented professionals. These professionals, Applicant suggests, in turn are likely to increase Applicant's performance and stockholder value. Applicant also asserts that equity-based compensation would more closely align the interests of Applicant's employees with those of its stockholders. In addition, Applicant states that its stockholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Plan by the Board.

Section 57(a)(4), Rule 17d–1

7. Section 57(a) proscribes certain transactions between a BDC and persons related to the BDC in the manner described in section 57(b) (''57(b) persons''), absent a Commission order. Section 57(a)(4) generally prohibits a 57(b) person from effecting a transaction in which the BDC is a joint participant absent such an order. Rule l7d–1, made applicable to BDCs by section 57(i), proscribes participation in a ''joint enterprise or other joint arrangement or profit-sharing plan,'' which includes a stock option or purchase plan. Employees and directors of a BDC are 57(b) persons. Thus, the issuance of shares of Restricted Stock could be deemed to involve a joint transaction involving a BDC and a 57(b) person in contravention of section 57(a)(4). Rule 17d–1(b) provides that, in considering

[10] See Executive Compensation and Related Party Disclosure, Securities Act Release No. 8655 (Jan. 27, 2006) (proposed rule); Executive Compensation and Related Party Disclosure, Securities Act Release No. 8732A (Aug. 29, 2006) (final rule and proposed rule), as amended by Executive Compensation Disclosure, Securities Act Release No. 8756 (Dec. 22, 2006) (adopted as interim final rules with request for comments).

relief pursuant to the rule, the Commission will consider (a) whether the participation of the BDC in a joint enterprise is consistent with the policies and purposes of the Act and (b) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

8. Applicant requests an order pursuant to sections 57(a)(4) and 57(i) of the Act and rule 17d–1 under the Act to permit Applicant to issue Restricted Stock under the Plan. Applicant acknowledges that its role is necessarily different from the other participants because the other participants are its directors and employees. It notes, however, that the Plan is in the interest of the Company's stockholders, because the Plan will help align the interests of Applicant's employees with those of its stockholders, which will encourage conduct on the part of those employees designed to produce a better return for Applicant's stockholders. Additionally, section 57(j)(1) of the Act expressly permits any director, officer or employee of a BDC to acquire warrants, options and rights to purchase voting securities of such BDC, and the securities issued upon the exercise or conversion thereof, pursuant to an executive compensation plan which meets the requirements of section 61(a)(3)(B) of the Act. Applicant submits that the issuance of Restricted Stock pursuant to the Plan poses no greater risk to stockholders than the issuances permitted by Section 57(j)(1) of the Act.

Section 23(c)

9. Section 23(c) of the Act, which is made applicable to BDCs by section 63 of the Act, generally prohibits a BDC from purchasing any securities of which it is the issuer except in the open market pursuant to tenders, or under other circumstances as the Commission may permit to ensure that the purchases are made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Applicant states that the withholding or purchase of shares of Restricted Stock and common stock in payment of applicable withholding tax obligations or of common stock in payment for the exercise price of a stock option might be deemed to be purchases by the Company of its own securities within the meaning of section 23(c) and therefore prohibited by the Act.

10. Section 23(c)(3) of the Act permits a BDC to purchase securities of which it is the issuer in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Applicant believes that the requested relief meets the standards of section 23(c)(3).

11. Applicant submits that these purchases will be made in a manner that does not unfairly discriminate against Applicant's stockholders because all purchases of Applicant's stock will be at the closing price of the common stock on the Nasdaq Global Market (or any primary exchange on which its shares of common stock may be traded in the future) on the relevant date (i.e., the public market price on the date of grant of Restricted Stock and the date of grant of Options). Applicant submits that because all transactions with respect to the Plan will take place at the public market price for the Company's common stock, these transactions will not be significantly different than could be achieved by any stockholder selling in a market transaction. Applicant represents that no transactions will be conducted pursuant to the requested order on days where there are no reported market transactions involving Applicant's shares.

12. Applicant represents that the withholding provisions in the Plan do not raise concerns about preferential treatment of Applicant's insiders because the Plan is a bona fide compensation plan of the type that is common among corporations generally. Furthermore, the vesting schedule is determined at the time of the initial grant of the Restricted Stock and the option exercise price is determined at the time of the initial grant of the Options. Applicant represents that all purchases may be made only as permitted by the Plan, which will be approved by the Company's stockholders prior to any application of the relief. Applicant believes that granting the requested relief would be consistent with the policies underlying the provisions of the Act permitting the use of equity compensation as well as prior exemptive relief granted by the Commission under section 23(c) of the Act.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. The Plan will be authorized by Applicant's stockholders.

2. Each issuance of Restricted Stock to an officer or employee will be approved by the Required Majority of Applicant's directors on the basis that such grant is in the best interest of Applicant and its stockholders.

3. The amount of voting securities that would result from the exercise of all of Applicant's outstanding warrants, options and rights, together with any Restricted Stock issued and outstanding pursuant to the Plan, will not at the time of issuance of any warrant, option, right or share of Restricted Stock under the Plan, exceed 20 percent of Applicant's outstanding voting securities.

4. The amount of Restricted Stock issued and outstanding will not at the time of issuance of any shares of Restricted Stock exceed ten percent of Applicant's outstanding voting securities.

5. The Board will review the Plan at least annually. In addition, the Board will review periodically the potential impact that the issuance of Restricted Stock under the Plan could have on Applicant's earnings and net asset value per share, such review to take place prior to any decisions to grant Restricted Stock under the Plan, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Board will be authorized to take appropriate steps to ensure that the issuance of Restricted Stock under the Plan will be in the best interest of Applicant and its stockholders. This authority will include the authority to prevent or limit the granting of additional Restricted Stock under the Plan. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5987 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 15, 2012 at 9:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has

certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 15, 2012 will be: Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

A collection matter; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: March 8, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–6114 Filed 3–9–12; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Securities Act of 1933; Release No. 9300/March 7, 2012; Securities Exchange Act of 1934; Release No. 66529/March 7, 2012]

Order Regarding Review of FASB Accounting Support Fee for 2012 Under Section 109 of the Sarbanes-Oxley Act of 2002

The Sarbanes-Oxley Act of 2002 (the ''Act'') provides that the Securities and Exchange Commission (the ''Commission'') may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the ''recoverable budget expenses'' of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board (''FASB'') and its parent organization, the Financial Accounting Foundation (''FAF''), satisfied the criteria for an accounting standard-setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as ''generally accepted'' under Section 108 of the Act.[1] As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2012. In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2012.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB, and the Governmental Accounting Standards Board (''GASB''), the FASB's sister organization, which sets accounting standards used by state and local government entities. The Commission has been advised by the FAF that neither the FAF, the FASB, nor the GASB accept contributions from the accounting profession.

After its review, the Commission determined that the 2012 annual accounting support fee for the FASB is consistent with Section 109 of the Act.

Accordingly, IT IS ORDERED, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–5983 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

[1] Financial Reporting Release No. 70.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66537; File No. SR–BX–2012–016]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Pricing for BX Members Using the NASDAQ OMX BX Equities System

March 8, 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 March 1, 2012, The NASDAQ OMX BX, Inc. (''BX'' 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 BX. 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

BX proposes to modify its fees for orders that are routed using BX's BTFY order routing strategy. BX will implement the proposed change immediately on March 1, 2012. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com,* at BX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BX 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. BX 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

BX is proposing to modify its fees for orders that are routed using BX's BTFY order routing strategy. BTFY is a routing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

option under which orders check the BX book for available shares only if so instructed by the entering firm and are thereafter routed out to destinations on the routing table established by BX from time to time for the BTFY strategy. If shares remain un-executed after routing, they are posted to the BX book and do not thereafter route out. The BTFY routing table is focused on destinations with low execution charges.

Currently, BX charges $0.0022 per share executed for BTFY orders that execute at the New York Stock Exchange (''NYSE''), but NYSE charges BX $0.0023 per share executed for such orders.[3] Accordingly, the cost to BX of routing BTFY orders to NYSE is currently in excess of the amount that BX charges. While this pricing incentive was introduced to encourage members to use BX routing services, it was not intended to be permanent. Accordingly, BX is proposing to increase the fee for routing BTFY orders to NYSE to $0.0023 per share executed, to match the fee that NYSE charges.

Similarly, BX currently charges $0.0005 per share executed for BTFY orders routed to destinations other than NYSE, The NASDAQ Stock Market (''NASDAQ''), or NASDAQ OMX PSX (''PSX''). As noted above, the BTFY routing table is focused on lower cost destinations, which currently include the EDGA Exchange (''EDGA''). Because BX's charge is lower than the $0.0007 per share executed charge assessed by EDGA,[4] and because BX did not intend to institute a permanent pricing incentive with regard to orders routed to EDGA, BX is increasing the charge to route to venues other than NYSE, NASDAQ, or PSX to $0.0007 per share executed. BX notes that the new charge, as well as the $0.0005 charge that it replaces, exceed the cost of routing to certain other venues to which the BTFY routing strategy may route from time to time, and therefore BX earns a profit on routing to such destinations. However, in light of losses that were formerly incurred when routing to EDGA, BX believes that the change will bring the fee in closer alignment to its average costs.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(4) and (5) of the Act,[6] 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 BX operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. All similarly situated members are subject to the same fee structure, and access to BX is offered on fair and non-discriminatory terms.

The proposed change in the fee for routing BTFY orders to NYSE is reasonable because it will result in a routing fee that is equal to the fee charged to BX when routing BTFY orders to NYSE. Similarly, the proposed change in the fee for routing BTFY orders to destinations other than NYSE, NASDAQ, and PSX is reasonable because it will result in a routing fee that is more consistent with the average costs incurred by BX when routing to such destinations. The new fee matches the cost incurred by BX to route to some destinations and exceeds the cost of routing to other destinations to which the BTFY routing strategy may route from time to time. However, BX believes that the change will bring the fee in closer alignment to its average costs.

Moreover, the proposed change in the fee for routing BTFY orders to NYSE is consistent with an equitable allocation of fees because the fee in question is charged solely to members that use the BTFY routing strategy, and is being adjusted to match the fee charged to BX when routing orders to NYSE. Similarly, the proposed change in the fee for routing BTFY orders to destinations other than NYSE, NASDAQ, and PSX is consistent with an equitable allocation of fees because the fee in question is charged solely to members that use the BTFY routing strategy, and is being adjusted to achieve a closer alignment between the charge and the costs incurred by BX when routing to these destinations. Finally, BX believes that the changes to both fees are not unfairly discriminatory because they only affect members that use the BTFY strategy, and are therefore directly related to the service provided to such members by the Exchange.

Finally, BX notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, BX must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because numerous alternatives exist to the routing services offered by BX, if BX increases its fees to an excessive extent, it will lose customers to its competitors. Accordingly, BX believes that competitive market forces help to ensure that the fees it charges for routing are reasonable, equitably allocated, and non-discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order routing is extremely competitive, members may readily opt to disfavor BX's execution and routing services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, BX does not believe that the proposed changes will impair the ability of members or competitors to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] 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:

[3] *http://usequities.nyx.com/markets/nyse-equities/trading-fees.*

[4] *http://www.directedge.com/Membership/FeeSchedule/EDGAFeeSchedule.aspx.*

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

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–BX–2012–016 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–BX–2012–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2012–016 and should be submitted on or before April 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6032 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66526); File No. SR–BX–2012–017]

Self-Regulatory Organizations; NASDAQ OMX BX; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Identify the Proprietary Data Feed of BOX Market Information That BOX Makes Available to Its Options Participants at No Charge

March 7, 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 March 2, 2012, NASDAQ OMX BX (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] 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

The Exchange proposes to amend Trading Rules of the Boston Options Exchange Group, LLC (''BOX'') to identify the proprietary data feed of BOX market information that BOX makes available to its Options Participants at no charge. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

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 is proposing to amend subsection 16(a) to Chapter V of the BOX Trading Rules to specify the name and content of the BOX market trading data feed containing information that BOX makes available to BOX Options Participants without charge and to restructure the current subsection to provide more clarity.

BOX provides the BOX High Speed Vendor Feed (''HSVF'') as an alternative for BOX Options Participants to receive BOX market data directly from BOX rather than via a commercial data vendor (which receives data from the Options Price Reporting Authority (''OPRA'')). The HSVF is available to all BOX Participants.

Current subsection 16(a)ii will be removed and replaced with language which specifies that the HSVF contains the following information:

(1) Trades and trade cancellation information;

(2) Best-ranked price level to buy and the best ranked price level to sell;

(3) Instrument summaries (including information such as high, low, and last trade price and traded volume);

(4) The five best limit prices for each option instrument;

(5) Request for Quote messages (see Chapter I, Section 1(a)(58), Chapter V, Section 9(h) and Chapter VI, Section 6);[4]

(6) PIP Order, Improvement Order and Block Trade Order (Facilitation and Solicitation) information (as set forth in Sections 18 and 31 of Chapter V of the BOX Rules, respectively);

(7) Orders exposed at NBBO (as set forth in Chapter V, Section 16(b)iii and Chapter VI, Section 5(c)iii of the BOX Rules, respectively);[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] RFQ messages are defined in Chapter I, Section 1(a)(58); Chapter V, Section 9(h) provides that the Market Regulation Center may send an RFQ to aid in the opening under certain conditions; and Chapter VI, Section 6 requires a market maker to post a valid two-sided quote that meets certain size and spread requirements within 3 seconds of receiving any RFQ message or when called up on to submit a quote by an Options Official.

[5] *See* Chapter V, Section 16(b)iii, providing that where an order is received which is executable against the NBBO and there is not a quote on BOX that is equal to the NBBO, that the order is exposed on the BOX Book at the NBBO for a period of one

Continued

(8) Instrument dictionary (e.g. strike price, expiration date, underlying symbol, price threshold, and minimum trading increment for instruments traded on BOX);

(9) Options class and instrument status change notices (e.g., whether an instrument or class is in pre-opening, continuous trading, closed, halted, or whether prohibited from trading); and

(10) Options class opening time.

The proposed change identifies the BOX proprietary data feed containing market information that BOX makes available to its Options Participants and sets forth in the BOX Rules that the HSVF is provided at no charge.[6] As will be set forth in more detail below, all orders and executions displayed through the HSVF are anonymous and do not contain the identity of the party submitting the order.

The Exchange also proposes to restructure subsection 16(a). Specifically, the Exchange proposes to remove the introductory language to 16(a). The current introductory language of subsection 16(a) does not fully describe the entire subsection. The removal of ''Order Ranking and Display'' should eliminate any potential for confusion regarding information that is set forth in that subsection. In addition, as proposed, the new first sentence sets forth that the rules regarding the manner in which BOX displays market information are provided in subsection (a)ii. The current language modifies current subsection 16(a)ii, and provides, that except as provided for in Section 18 (the Price Improvement Period), BOX shall display all non-marketable Limit Orders in a manner described below. This language is no longer applicable, because, as previously described, proposed subsection (a)ii completely replaces current subsection 16(a)ii and will now set forth the content of the HSVF in this portion of the rule. A reference to subsection (a)iii is being provided to add more clarity to the introductory paragraph. The language referencing that the information is being displayed on an anonymous basis is being removed, as it is duplicative and can be found in Chapter V, Section 14(e) which provides that, ''[t]he identity of Options Participants who submit orders to the Trading Host will remain anonymous to market participants at all times, except orders submitted through the Directed Order process, during error resolution or through the normal clearing process as set forth in Chapter V, Section 16(a)(vi) of these Rules.'' Finally, a reference to Rule 11Ac–1 is being replaced with a reference to Rule 602. Rule 11Ac–1 was re-designated as Rule 602 as part of the adoption of Regulation NMS.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[7] in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposal is in keeping with those principles by promoting increased transparency through the dissemination of more useful proprietary data and also by clarifying its availability to market participants.

Additionally, the Exchange is making a voluntary decision to make this data available, unlike the best bid and offer which must be made available under the Act. The Exchange chooses to make the data available as proposed in order to improve market quality, to attract order flow, and to increase transparency. Once this proposed change becomes effective, the Exchange will continue making the data available until such time as the Exchange changes its rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, offering a voluntary and free data feed promotes competition among trading platforms by advertising available trading interest and enabling BOX to attract additional liquidity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

The Exchange has requested that the Commission waive the 30-day operative delay to allow the Exchange to continue to provide the HSVF that it already makes freely available and on a voluntary basis. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is designed to promote increased transprancy through the dissemination of proprietary data.[10] Therefore, the Commission designates the proposal operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

second. If the order is not executed during the one second exposure period, then the order is either routed or cancelled. *See also* Chapter VI, Section 5(c)iii setting forth, among other matters, the rules regarding exposure within the Directed Order process.

[6] As noted, BOX does not charge any fee directly for the HSVF. BOX does charge an initial setup fee, and a monthly maintenance fee, for physical connections to BOX, as set forth in Section 5.a., of the BOX Fee Schedule. A physical connection enables Participants to submit quotes or orders to BOX, and receive the HSVF if they choose. All BOX Market Makers must accept the HSVF. However, BOX Order Flow Providers are not obligated to accept the HSVF.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] *See, e.g.,* Securitites Exchange Act Release Nos. 64445 (May 9, 2011), 76 FR 28108 (May 13, 2011) (SR–BATS–2011–017); 63983 (February 25, 2011), 76 FR 12178 (March 4, 2011) (SR–NASDAQ–2011–032).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BX–2012–017 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–BX–2012–017. 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–BX–2012–017 and should be submitted on or before April 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6033 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66525; File No. SR–ISE–2012–09]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Network Fees

March 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its network fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Exchange's network fees. Specifically, the Exchange proposes to adopt a network fee for a new 10 Gigabit (GB) low latency Ethernet connectivity option. The Exchange currently offers two Ethernet connection options, a 1 GB connection at a cost of $500 per month and a 10 GB connection at a cost of $4,000 per month.

In keeping with changes in technology, the Exchange now proposes to provide an enhanced bandwidth option to enable Members a more efficient connection to the Exchange. Through the use of new, advanced hardware, the proposed new connectivity option will provide a higher speed network to access the Exchange's Optimise trading system.

The Exchange proposes to charge Members $7,000 per month for this connection. ISE has expended significant amount of resources in developing this infrastructure and the proposed fees will allow the Exchange to recoup its investment. The Exchange's new network connectivity option will provide Members the option to select the bandwidth that is appropriate for their current needs. This new connectivity option is voluntary and therefore, the Exchange will retain the existing connectivity options for those Members who choose not to utilize the new network connection.

The Exchange has designated this proposal to be operative on March 1, 2012.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (''Act''),[3] in general, and with Section 6(b)(4) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. In particular, the proposed rule change will provide greater transparency into the connectivity options available to Members.

The Exchange's proposal for a low latency 10 GB Ethernet network

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

connection will provide Members the ability to increase data transmission and reduce latency, thereby enhancing their operations. The Exchange believes the proposed fees for this new connection to the Exchange are reasonable because the fees charged will allow the Exchange to cover the hardware, installation, testing and connection costs to maintain and manage the enhanced connection. The proposed fees will allow the Exchange to recoup costs associated with providing the low latency 10 GB connection and provide the Exchange a profit while providing Members the possibility of reducing the number of their connections to the Exchange. The Exchange believes the proposed fees are reasonable in that they are lower than the fees charged by other trading venues for similar connectivity services.[5]

The Exchange also believes the proposed 10 GB fee for connectivity to the Exchange is equitably allocated in that all Exchange Members that voluntarily select this service option will be charged the same amount to maintain and manage the enhanced connection. All Exchange Members have the option to select this voluntary network connection.

The Exchange also believes the proposed 10 GB fee for connectivity to the Exchange is not unfairly discriminatory in that all Exchange Members will have the option of selecting the 10 GB connection to the Exchange, and there is no differentiation among Members with regard to the fees charged for this option.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act.[6] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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 Exchange 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–ISE–2012–09 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–ISE–2012–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule 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–ISE–2012–09 and should be submitted on or before April 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. 2012–5984 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

[5] NYSE charges $10,000 per month for 10Gb LCN (Liquidity Center Network) Connection. *See https://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_marketplace_fees_1.3.2012.pdf*, page 13.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66528; File No. SR–FINRA–2012–014]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Extend the Implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

March 7, 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 February 23, 2012, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend to July 17, 2012 the implementation of FINRA Rule 4240, retroactively from January 17, 2012. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps.

The text of the proposed rule change is available on FINRA's Web site at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

http://www.finra.org, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,[3] which implements an interim pilot program (''Interim Pilot Program'') with respect to margin requirements for certain transactions in credit default swaps (''CDS''). On July 11, 2011, FINRA extended the implementation of Rule 4240 to January 17, 2012.[4]

As explained in the Approval Order,[5] FINRA Rule 4240, coterminous with certain Commission actions,[6] is intended to address concerns arising from counterparty credit risk posed by CDS, including, among other things, risks to the financial system arising from credit risk resulting from bilateral CDS transactions and from a concentration of credit risk to a central counterparty that clears and settles CDS. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''),[7] Title VII of which established a comprehensive new regulatory framework for swaps and security-based swaps,[8] including certain CDS. The new legislation was intended among other things to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

FINRA believes it is appropriate to extend the Interim Pilot Program for a limited period, to July 17, 2012, in light of the continuing development of the CDS business within the framework of the Dodd-Frank Act. In addition, in a separate filing, FINRA is proposing revisions to FINRA Rule 4240 to limit the application of the rule at this time to certain transactions in credit default swaps that are security-based swaps and to make other revisions to update the rule.[9]

FINRA has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act [10] for approving the proposed rule change prior to the 30th day after its publication in the **Federal Register**, such that FINRA can prevent FINRA Rule 4240 from lapsing and implement the proposed rule change retroactively from January 17, 2012. Without the proposed rule change, FINRA Rule 4240 would have expired on January 17, 2012.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–014 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.

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[3] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 [File No. SR–FINRA–2009–012]) (''Approval Order'').

[4] *See* Securities Exchange Act Release No. 64892 (July 14, 2011), 76 FR 43360 (July 20, 2011) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change [File No. SR–FINRA–2011–034]).

[5] *See supra* note 3, at 25588–89.

[6] In early 2009, the Commission enacted interim final temporary rules providing enumerated exemptions under the federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. *See* Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9063 (September 14, 2009), 74 FR 47719 (September 17, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps); Securities Act Release No. 9158 (November 19, 2010), 75 FR 72660 (November 26, 2010) (Extension of Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps). *See also* Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps, and Request for Comments); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Pursuant to Section 36 of the Securities Exchange Act of 1934 Granting Temporary Exemptions from Sections 5 and 6 of the Exchange Act for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

[7] Pub. L. 111–203, 124 Stat. 1376 (2010).

[8] The terms ''swap'' and ''security-based swap'' are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commission and the CFTC jointly have proposed to further define these terms. *See* Securities Exchange Act Release No. 64372 (Apr. 29, 2011), 76 FR 29818 (May 23, 2011) (Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping); Securities Exchange Act Release No. 63452 (Dec. 7, 2010), 75 FR 80174 (Dec. 21, 2010) (Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant'').

[9] *See* SR–FINRA–2012–015.

[10] 15 U.S.C. 78s(b)(2).

[11] 15 U.S.C. 78*o*–3(b)(6).

All submissions should refer to File Number SR–FINRA–2012–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–014 and should be submitted on or before April 3, 2012.

IV. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change

FINRA has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**.[12] After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[13]

In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[14] The accelerated approval will, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, help to stabilize the financial markets by setting forth margin requirements for certain transactions in CDS.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,[15] for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. This accelerated approval will allow the existing pilot program to be effective retroactively to January 17, 2012, and extended through July 17, 2012, to permit the pilot program to continue without interruption and extend the benefits of a pilot program that the Commission has previously approved and extended.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–FINRA–2012–014), be, and it hereby is, approved on an accelerated basis to July 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5986 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66527; File No. SR–FINRA–2012–015]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

March 7, 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 February 23, 2012, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) to limit the application of the rule at this time to certain transactions in credit default swaps that are security-based swaps and to make other revisions to update the rule. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,[3] which implements an interim pilot program (''Interim Pilot Program'') with respect to margin requirements for certain transactions in credit default swaps (''CDS''). FINRA has filed a proposed

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[12] 15 U.S.C. 78s(b)(2).

[13] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78*o*–3(b)(6).

[15] 15 U.S.C. 78s(b)(2).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 [File No. SR–FINRA–2009–012]) (''Approval Order'').

rule change to extend the implementation of Rule 4240 to July 17, 2012.[4]

As explained in the Approval Order,[5] FINRA Rule 4240, coterminous with certain Commission actions,[6] is intended to address concerns arising from counterparty credit risk posed by CDS, including, among other things, risks to the financial system arising from credit risk resulting from bilateral CDS transactions and from a concentration of credit risk to a central counterparty that clears and settles CDS. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''),[7] Title VII of which established a comprehensive new regulatory framework for swaps and security-based swaps,[8] including certain CDS. The new legislation was intended among other things to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

As noted earlier, FINRA has filed a proposed rule change to extend the implementation of FINRA Rule 4240 to July 17, 2012.[9] In this filing, FINRA is proposing to make certain revisions to FINRA Rule 4240 in light of the continuing development of the CDS business within the framework of the Dodd-Frank Act.

Specifically, FINRA is limiting the application of FINRA Rule 4240 at this time to CDS that are security-based swaps under Section 3(a)(68) of the Act,[10] pending further development of federal regulations governing margin for swaps and security-based swaps and further consideration of potential portfolio margin methodologies for cleared CDS that include both swaps and security-based swaps. Based on these factors, FINRA may propose to extend FINRA Rule 4240 to encompass CDS that are swaps under Section 1a(47) of the Commodity Exchange Act[11] at a later date.

Accordingly, FINRA is revising the definition of ''CDS'' set forth in paragraph (a) of FINRA Rule 4240 to provide that, for purposes of the rule, the term CDS includes any product that is commonly known to the trade as a credit default swap and is a security-based swap as defined pursuant to Section 3(a)(68) of the Act or the rules and guidance of the SEC and its staff.[12] Consistent with this change, FINRA is eliminating the grid set forth under paragraph (a) of FINRA Rule 4240.01 as to CDS contracts where the underlying obligation is a debt index rather than a single name bond, because such grid is for broad-based indexes. As revised, the rule provides that with respect to CDS contracts where the underlying obligation is a narrow-based debt index, rather than a single name bond, the margin requirement shall be based upon a margin methodology using the member's internal models the use of which has been approved by FINRA. In addition, FINRA is revising paragraphs (a), (b) and (c)(1) of the rule to remove references to derivatives clearing organizations.

Further, in the interest of regulatory clarity and efficiency, and based upon FINRA's experience in the administration of the rule, FINRA has revised the grid set forth under FINRA Rule 4240.01(a) as to CDS contracts where the underlying obligation is a single name debt security. Specifically, the revised grid sets forth more calibrated ranges with respect to the length of time to maturity of the relevant CDS contract and percentages with respect to the required margin.

FINRA has made minor edits to paragraph (e) of the rule to align the terms ''current exposure'' and ''maximum potential exposure'' with the definitions set forth in Act Rule 15c3–1e(c)(4) and to make other minor clarifications. In addition, in the interest of clarification, FINRA has replaced references to use of an ''approved margin methodology'' in paragraphs (a), (c)(1) and (c)(2) of the rule with ''using'' or ''use'' a ''margin methodology the use of which has been approved by FINRA as announced in a Regulatory Notice.''

Lastly, FINRA has made clarifying edits to paragraph (c) of Supplementary Material .01 to provide that in instances where the customer or broker-dealer maintains both long and short CDS, the member may elect to collect 50% of the relevant margin requirements on the lesser of the long or short position within the same Bloomberg CDS sector (or, if the long and short positions are equal, the long position), provided those long and short positions are in the same spread and maturity bucket, plus the relevant margin requirements on the excess long or short position, if any.

The proposed rule change will become effective upon approval by the SEC. FINRA has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act[13] for approving the proposed rule change prior to the 30th day after its publication in the **Federal Register**.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[14] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, the margin requirements set forth by the

[4] *See* SR–FINRA–2012–014.

[5] *See* 74 FR 25588 through 25589.

[6] In early 2009, the Commission enacted interim final temporary rules providing enumerated exemptions under the federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. *See* Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9063 (September 14, 2009), 74 FR 47719 (September 17, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps); Securities Act Release No. 9158 (November 19, 2010), 75 FR 72660 (November 26, 2010) (Extension of Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps). *See also* Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps, and Request for Comments); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Pursuant to Section 36 of the Securities Exchange Act of 1934 Granting Temporary Exemptions from Sections 5 and 6 of the Exchange Act for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

[7] Public Law 111–203, 124 Stat. 1376 (2010).

[8] The terms ''swap'' and ''security-based swap'' are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commission and the CFTC jointly have proposed to further define these terms. *See* Securities Exchange Act Release No. 64372 (Apr. 29, 2011), 76 FR 29818 (May 23, 2011) (Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping); Securities Exchange Act Release No. 63452 (Dec. 7, 2010), 75 FR 80174 (Dec. 21, 2010) (Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant'').

[9] *See supra* note 4.

[10] 15 U.S.C. 78c(a)(68).

[11] 7 U.S.C. 1a(47).

[12] *See* Exhibit 5 attached to SR–FINRA–2012–015. *See also supra* note 8.

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78*o*–3(b)(6).

proposed rule change will help to stabilize the financial markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–015 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–FINRA–2012–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–015 and should be submitted on or before April 3, 2012.

IV. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change

FINRA has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**.[15] After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[16]

In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[17] Specifically, as noted above, FINRA is limiting the application of FINRA Rule 4240 at this time to CDS that are security-based swaps under Section 3(a)(68) of the Act,[18] pending further development of federal regulations governing margin for swaps and security-based swaps and further consideration of potential portfolio margin methodologies for cleared CDS that include both swaps and security-based swaps. This is consistent with the goals of Title VII of the Dodd-Frank Act.[19] In addition, the Commission believes that the proposed alternative tables that may be used by market participants to compute the required margin will provide market participants with some flexibility in computing margin, while still permitting the continued use of the existing margin tables in FINRA Rule 4240 Supplementary Material .01.

The accelerated approval will, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, help to stabilize the financial markets by setting forth margin requirements for certain transactions in CDS. Therefore, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after the date of publication of note in the **Federal Register**.[20]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–FINRA–2012–015) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5985 Filed 3–12–12; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(2).

[16] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78*o*–3(b)(6).

[18] 15 U.S.C. 78c(a)(68).

[19] Public Law 111–203, 124 Stat. 1376 (2010).

[20] 15 U.S.C. 78(b)(2).

[21] 15 U.S.C. 78(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Advanced Growing Systems, Inc., Advantage Capital Development Corp., Amazon Biotech, Inc., Andover Holdings, Inc. a/k/a Andover Energy Holdings, Inc., Bravo! Brands, Inc., and BSML, Inc., Order of Suspension of Trading

March 9, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Advanced Growing Systems, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Advantage Capital Development Corp. because it has not filed any periodic reports since the period ended December 31, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Amazon

Biotech, Inc. because it has not filed any periodic reports since the period ended October 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Andover Holdings, Inc. a/k/a Andover Energy Holdings, Inc. because it has not filed any periodic reports since the period ended December 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Bravo! Brands, Inc. because it has not filed any periodic reports since the period ended March 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BSML, Inc. because it has not filed any periodic reports since the period ended March 28, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on March 9, 2012, through 11:59 p.m. EDT on March 22, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–6157 Filed 3–9–12; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 12, 2012. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''SBA Lender Microloan Intermediary and NTAP Reporting Requirements''.

Frequency: On Occasion.

SBA Form Number: N/A.

Description of Respondents: SBA Microloan Lenders.

Responses: 170.

Annual Burden: 1,700.

Curtis Rich,

Management Analyst.

[FR Doc. 2012–5958 Filed 3–12–12; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13025 and #13026]

Oregon Disaster #OR–00041

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oregon (FEMA–4055–DR), dated 03/02/2012.

Incident: Severe Winter Storm, Flooding, Landslides, and Mudslides.

Incident Period: 01/17/2012 through 01/21/2012.

Effective Date: 03/02/2012.

Physical Loan Application Deadline Date: 05/01/2012.

Economic Injury (EIDL) *Loan Application Deadline Date:* 12/03/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/02/2012, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Benton, Columbia, Coos, Curry, Douglas, Hood River, Lane, Lincoln, Linn, Marion, Polk, Tillamook.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13025B and for economic injury is 13026B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–5962 Filed 3–12–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0454]

Emergence Capital Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, *Financings which Constitute Conflicts of Interest,* of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Emergence Capital Partners SBIC, L.P. proposes to provide equity financing to InsideView Technologies, Inc., 444 DeHaro Street, Suite 210, San Francisco, CA 94107 (''InsideView'').

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Emergence Capital Partners, L.P. and Emergence Capital Associates, L.P., Associates of Emergence Capital Partners SBIC, L.P., own in aggregate more than ten percent of InsideView. Therefore, InsideView is considered an Associate of Emergence Capital Partners SBIC, L.P. and the transaction is considered as financing an Associate, requiring prior written exemption from SBA.

Notice is hereby given that any interested person may submit written comments on the transaction within 15 days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: February 27, 2012.

Sean J. Greene,

Associate Administrator for Investment.

[FR Doc. 2012–5960 Filed 3–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 7823]

30-Day Notice of Proposed Information Collection: Department of State Acquisition Regulation (DOSAR), OMB Control Number 1405–0050

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Department of State Acquisition Regulation (DOSAR).
- *OMB Control Number:* 1405–0050.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, Office of the Procurement Executive (A/OPE).
- *Form Number:* N/A.
- *Respondents:* Any business, other for-profit, individual, not-for-profit, or household organization wishing to receive Department of State contracts.
- *Estimated Number of Respondents:* 3,466.
- *Estimated Number of Responses:* 9,316.
- *Average Hours Per Response:* Varies.
- *Total Estimated Burden:* 275,970 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from March 13, 2012.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *Email: Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Jan Visintainer, Procurement Analyst, Office of the Procurement Executive, Department of State, Washington, DC 20522, who may be reached on 703–516–1693 or at *visintainerjl@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

This information collection covers pre-award and post-award requirements of the DOSAR. During the pre-award phase, information is collected to determine which bids or proposals offer the best value to the U.S. Government. Post-award actions include monitoring the contractor's performance; issuing modifications to contracts; dealing with unsatisfactory performance; issuing payments to the contractor; and closing out the contract upon its completion.

Methodology

Information is collected from prospective offerors to evaluate their proposals. The responses provided by the public are part of the offeror's proposals in response to Department solicitations. This information may be submitted electronically (through fax or email), or may require a paper submission, depending upon complexity. After contract award, contractors are required to submit information, on an as-needed basis, and relate to the occurrence of specific circumstances.

Dated: February 29, 2012.

Corey M. Rindner,

Procurement Executive, Bureau of Administration, Department of State.

[FR Doc. 2012–6052 Filed 3–12–12; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 7824]

The Designation of Jemmah Anshorut Tauhid (JAT), Also Known as Jemmah Ansharut Tauhid, Also Known as Jem'mah Ansharut Tauhid, Also Known as Jamaah Ansharut Tauhid, Also Known as Jama'ah Ansharut Tauhid, as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Jemmah Anshorut Tauhid, also known as Jemmah Ansharut Tauhid, also known as Jem'mah Ansharut Tauhid, also known as Jamaah Ansharut Tauhid, also known as Jama'ah Ansharut Tauhid.

Therefore, I hereby designate the aforementioned organization and its aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: February 23, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–6045 Filed 3–12–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 7825]

In the Matter of the Designation of Jemmah Anshorut Tauhid (JAT) Also Known as Jemmah Ansharut Tauhid Also Known as Jem'mah Ansharut Tauhid Also Known as Jamaah Ansharut Tauhid Also Known as Jama'ah Ansharut Tauhid as a Specially Designated Global Terrorist Entity 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 organization known as Jemmah Anshorut Tauhid, also known as Jemmah Ansharut Tauhid, also known as Jem'mah Ansharut Tauhid, also known as Jamaah Ansharut Tauhid, also known as Jama'ah Ansharut Tauhid, 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 determination shall be published in the **Federal Register**.

Dated: February 23, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–6079 Filed 3–12–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability and Request for Comment on the Draft Environmental Assessment (EA) for the Launch and Reentry of SpaceShipTwo Reusable Suborbital Rockets at the Mojave Air and Space Port

AGENCY: Federal Aviation Administration (FAA), lead Federal agency and United States Air Force and National Aeronautics and Space Administration, cooperating agencies.

ACTIONS: Notice of Availability, Notice of Public Comment Period, and Request for Comment.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, 42 United States Code § 4321–4347 (as amended), Council on Environmental Quality (CEQ) NEPA implementing regulations (40 Code of Federal Regulations [CFR] Parts 1500–1508), and FAA Order 1050.1E, Change 1, the FAA is announcing the availability of and requesting comments on the Draft EA for the Launch and Reentry of SpaceShipTwo Reusable Suborbital Rockets at the Mojave Air and Space Port.

The Draft EA was prepared to analyze the potential environmental impacts of issuing experimental permits and/or launch licenses to operate SpaceShipTwo Reusable Suborbital Rockets and WhiteKnightTwo carrier aircraft at the Mojave Air and Space Port in Mojave, California. Under the Proposed Action, the FAA would issue experimental permits and/or launch licenses to multiple operators for the operation of SpaceShipTwo and WhiteKnightTwo at the Mojave Air and Space Port. Both WhiteKnightTwo and SpaceShipTwo would be piloted during operations. The Mojave Air and Space Port comprises an area of approximately 3,000 acres in Kern County, California, and is east of the unincorporated town of Mojave. The Draft EA addresses the potential environmental impacts of implementing the Proposed Action and the No Action Alternative of not issuing an experimental permit and/or launch license for the operation of SpaceShipTwo and WhiteKnightTwo at the Mojave Air and Space Port.

The FAA has posted the Draft EA on the FAA/AST Web site at *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/review/permits/*. A paper copy of the Draft EA may be reviewed for comment during regular business hours at the following locations:

Edwards AFB Base Library, 95 SPTG/SVMG, 5 West Yeager Blvd., Building 2665, Edwards AFB, CA 93524–1295.

Kern County Library, Boron Branch, 26967 20 Mule Team Road, Boron, CA 93516.

Kern County Library, California City Branch, 9507 California City Boulevard, California City, CA 93505.

Kern County Library, Kernville Branch, 48 Tobias Street, Kernville, CA 93238.

Kern County Library, Mojave Branch, 16916–1/2 Highway 14, Mojave, CA 93501.

Kern County Library, Ridgecrest Branch, 131 East Las Flores Avenue, Ridgecrest, CA 93555.

Kern County Library, Tehachapi Branch, 450 West F Street, Tehachapi, CA 93561.

Kern County Library, Wofford Heights Branch, 6400–B Wofford Boulevard, Wofford Heights, CA 93285.

Kern River Valley Library, 7054 Lake Isabella Boulevard, Lake Isabella, CA 93240.

Kern River Valley Library, Wanda Kirk Branch (Rosamond), 3611 Rosamond Boulevard, Rosamond, CA 93560.

DATES: Interested parties are invited to submit comments on environmental issues and concerns on or before April 13, 2012, or 30 days from the date of publication of this Notice of Availability, whichever is later.

ADDRESSES: Please submit comments in writing to Mr. Daniel Czelusniak, Environmental Program Lead, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Room 325, Washington, DC 20591; or by email at *Daniel.Czelusniak@faa.gov.*

Additional Information: Under the Proposed Action, the FAA would issue experimental permits and/or launch licenses for the operation of SpaceShipTwo and WhiteKnightTwo at the Mojave Air and Space Port in Mojave, CA. The Proposed Action does not include any construction activities. The Mojave Air and Space Port's existing infrastructure would be used for takeoff and landing activities. Experimental permits would be valid for one year. Launch licenses would be valid for up to two years. The FAA could renew experimental permits and launch licenses if requested, in writing, by the permitees at least 60 days before the permit expires, and/or by the licensees at least 90 days before the license expires. The Draft EA assumes that the FAA could issue either new or renewed experimental permits and/or launch licenses. For purposes of

analyzing environmental impacts in the Draft EA, the FAA developed a conservative set of assumptions regarding the possible number of launches and reentries that could be conducted under any one experimental permit and/or launch license for the SpaceShipTwo at the Mojave Air and Space Port. The FAA has assumed a maximum of up to 30 total launches and reentries per year of SpaceShipTwo for a total of up to 150 launches and reentries of SpaceShipTwo between 2012 and 2016. This estimation is a conservative number and considers potential multiple launches per day and potential launch aborts.

The only alternative to the Proposed Action analyzed in the Draft EA is the No Action Alternative. Under the No Action Alternative, the FAA would not issue experimental permits and/or launch licenses for the operation of SpaceShipTwo and WhiteKnightTwo from the Mojave Air and Space Port. Existing operations at Mojave Air and Space Port would continue.

The resource areas considered in the Draft EA include air quality; biological resources (including fish, wildlife, and plants); historical, architectural, archaeological, and cultural resources; hazardous materials, pollution prevention, and solid waste; health and safety; land use (including Department of Transportation Section 4(f) properties); light emissions and visual resources; noise and compatible land use; socioeconomic resources, environmental justice, and children's environmental health and safety; and cumulative impacts.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Czelusniak, Environmental Program Lead, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Room 325, Washington, DC 20591; telephone (202) 267–5924; email: *Daniel.Czelusniak@faa.gov.*

Issued in Washington, DC, on March 7, 2012.

Michael McElligott,

Manager, Space Transportation Development Division.

[FR Doc. 2012–6000 Filed 3–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Meeting With Interested Persons To Discuss the Proposed Federal Aviation Administration (FAA) Draft Technical Standard Order (TSO)–C199 Establishing the Minimum Performance Standard (MPS) for Low Powered Surveillance Equipment (LPSE)

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of public meetings.

SUMMARY: The Federal Aviation Administration (FAA) will be holding a public meeting to discuss issuing a new Technical Standard Order (TSO). This TSO will define a minimum performance standard (MPS) for avionic surveillance equipment, for aircraft that are currently exempt from using ATC transponder and altitude reporting equipment or automatic dependent surveillance-broadcast (ADS–B Out) equipment as defined in Title 14 of the Code of Federal Regulations (14 CFR) §§ 91.215 and 91.225.

Meeting Dates and Location:

DATES: This meeting will be held on April 4–5, in Washington, DC.

ADDRESSES: FAA Headquarters, 800 Independence Ave. SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: To obtain additional details and to register for this meeting, please contact: Mr. John Fisher, AIR–130, Federal Aviation Administration, Aircraft Certification Service, Avionics Systems Branch, 470 L'Enfant Plaza SW., Fourth floor, Washington, DC 20591, Telephone (202) 385–4948, FAX: (202) 385–4651, Email: *john.d.fisher@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Currently, certain types of aircraft, such as gliders, balloons, and aircraft not originally certified with an electrical system, as defined in §§ 91.215(b)(3), 91.215(b)(5), 91.225(e)(1), and 91.225(e)(2), are not required to carry a transponder or ADS–B Out equipment when flying in the National Airspace System (NAS). Available data shows that where glider flight operations coincide with powered aircraft flight operations, the likelihood of a mishap is greatest. To mitigate this risk, the FAA proposes a new, low powered surveillance system (LPSE) that will interface with aircraft equipped with current collision avoidance systems, such as Traffic Avoidance System (TAS), Traffic Alert and Collision Avoidance System I and II (TCAS I) (TCAS II), and those aircraft equipped with ADS–B In and display capability. The FAA intends to hold a public meeting to facilitate a technical interchange with equipment manufacturers, potential users, and interested parties, to discuss technical LPSE design considerations. The FAA envisions a new TSO–C199, Low Powered Surveillance Equipment (LPSE) that will provide an effective way for gliders, balloons, and aircraft not originally certified with an electrical system to interface with current collision avoidance systems.

Issued in Washington, DC, on March 7, 2012.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2012–5926 Filed 3–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-use Assurance; Seymour (Freeman) Municipal Airport, Seymour, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use at the Seymour (Freeman) Field Municipal Airport in Seymour, Indiana. The proposal consists of 871 acres located outside of the fenced in portion of airport property. This land is currently being farmed. The entire 871 acres is part of Quitclaim Deed from the United States Department of Defense in 1941. It is the intent of the Seymour Airport Authority, as owner and operator of Seymour (Freeman) Municipal Airport (SER) to lease or sell the entire 871 acres as an industrial park. This notice announces that the FAA is considering the release of the subject airport property at Seymour (Freeman) Municipal Airport, from all federal land covenants. Approval does not constitute a commitment by the FAA to financially assist in disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA.

In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before April 12, 2012.

FOR FURTHER INFORMATION CONTACT: Benjamin Mello, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone Number 847–294–7195/FAX Number 847–294–7046. Documents reflecting this FAA action may be reviewed at this same location by appointment or at the Seymour (Freeman) Municipal Airport, 1025 A Avenue, Seymour (Freeman) Municipal Airport, Seymour, Indiana 47274.

SUPPLEMENTARY INFORMATION: Following is a legal description of the properties being released located in Seymour, Jackson County, Indiana, and described as follows:

Sections 25 and Section 36

A part of Sections 25 and Section 36 all in Township 6 North, Range 5 East, in Jackson County, Indiana, and being a part of the real estate conveyed to Seymour Aviation Commission by quitclaim deed recorded in Deed Record 93, page 405, Office of the Recorder, Jackson County, described as follows: Beginning at the Southwest corner of said Section 25; thence North 0 degrees 55 minutes and 15 seconds West (assumed bearing) 2,579.80 feet along the west line of said section to the Runway Protection Zone (RPZ) northwest of Runway 15–33; thence South 54 degrees 16 minutes 48 seconds East 370.95 feet along the said RPZ to a point that is 400.00 feet southwesterly at right angles from the centerline of Runway 15–33 feet; thence South 45 degrees 44 minutes 58 seconds East 5,252.11 feet parallel with and 400.00 feet southwesterly of the centerline of Runway 15–33; thence South 28 degrees 40 minutes 22 seconds East 766.96 feet to a point that is 640.00 feet northwesterly at right angles from the centerline of Runway 5–23 feet; thence South 44 degrees 14 minutes 11 seconds West 2,080.11 feet parallel with and 640 feet northwesterly of the centerline of Runway 5–23 to the RPZ southwest of Runway 5–23; thence South 52 degrees 46 minutes 02 seconds West 1,584.19 feet along said RPZ; thence South 45 degrees 45 minutes 49 seconds East 1,173.63 feet along said RPZ to the south line of said Section 36; thence South 88 degrees 06 minutes 07 seconds West 2,465.34 feet along said south line to the Southwest corner of said Section 36; thence North 0 degrees 35 minutes 00 seconds West 5,324.46 feet along the west line of said Section 36 to the point of beginning and containing 81.466 acres, more or less, in Section 25 and 380.063 acres, more or less, in Section 36. Said parcel contains 461.529 acres more or less.

Section 31

A part of Section 31, Township 6 North, Range 6 East, and a part of Section 36, Township 6 North, Range 5 East, in Jackson County, Indiana, and being a part of the real estate conveyed to Seymour Aviation Commission by quitclaim deed recorded in Deed Record 93, page 405, Office of the Recorder, Jackson County, described as follows: Beginning at the Southeast Corner of said Section 31; thence North 1 degree 21 minutes and 10 seconds West (assumed bearing) 1,040.88 feet on and along the east line of said Section 31; thence North 75 degrees 13 minutes 08 seconds West 1,251.03 feet; thence North 0 degrees 59 minutes 40 seconds West 1,825.34 feet; thence North 88 degrees 35 minutes 21 seconds East 841.17 feet; thence North 6 degrees 34 minutes 33 seconds East 968.67 feet; thence South 89 degrees 38 minutes 53 seconds West 2,598.83 feet to a point that is 850,00 feet southeasterly at right angles from the centerline of Runway 5–23; thence South 44 degrees 14 minutes 11 seconds West 833.80 feet parallel with and 850 feet southeasterly of the centerline of Runway 5–23; thence South 45 degrees 45 minutes 49 seconds East 75,00 feet to a point 925.00 feet southeasterly at right angles from the centerline of Runway 5–23; thence South 44 degrees 14 minutes 11 seconds West 1,131.87 feet parallel with and 925 feet southeasterly of the centerline of Runway 5–23 to a point that is 400 feet northeasterly at right angles to the centerline of Runway 15–33; thence South 45 degrees 44 minutes 58 seconds East 350.00 feet parallel with and 400 feet northeasterly of the centerline of Runway 15–33 to the Runway Protection Zone (RPZ) southeast of Runway 15–33; thence South 54 degrees 16 minutes 48 seconds East 707.83 feet along the said RPZ; thence South 44 degrees 15 minutes 02 seconds West 1,010.00 feet along said RPZ; thence North 37 degrees 13 minutes 07 seconds West 707.83 feet along said RPZ to a point that is 400 feet southwesterly at right angles to the centerline of Runway 15–33; thence North 45 degrees 44 minutes 58 seconds West 634.80 feet parallel with and 400 feet southwesterly of the centerline of Runway 15–33 to a point that is 640 feet southeasterly at right angles from the Centerline of Runway 5–23; thence South 44 degrees 14 minutes 11 seconds West 2,305.01 feet parallel with and 640 feet southeasterly of the centerline of Runway 5–23 to the RPZ southwest of Runway 5–23; thence South 35 degrees 42 minutes 21 seconds West 1,059.69 feet along said RPZ to the south line of said Section 36; thence North 88 degrees 06 minutes 07 seconds East 2,088.04 feet along said south line to the Southeast corner of said Section 36; thence North 88 degrees 35 minutes 41 seconds East 5,133.75 feet along the south line of said Section 31 to the point of beginning and containing 351.231 acres, more or less, in Section 31 and 58.105 acres, more or less, in Section 36. Said parcel contains 409.336 acres, more or less.

Issued in Des Plaines, Illinois on, March 2, 2012.

Richard Kula,

Acting Manager, Chicago Airports District Office FAA, Great Lakes Region.

[FR Doc. 2012–6012 Filed 3–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, the Gaston East-West Connector, from I–85 west of Gastonia in Gaston County, North Carolina, to I–485 near the Charlotte-Douglas International Airport in Mecklenburg County, North Carolina. The Gaston East-West Connector is also known as State Transportation Improvement Program Project U–3321. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 10, 2012. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for

filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. George Hoops, P.E., Major Projects Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina, 27601–1418, Telephone: (919) 747–7022; email: *george.hoops@dot.gov.* FHWA North Carolina Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). Ms. Jennifer Harris, P.E., Director of Planning and Environmental Studies, North Carolina Turnpike Authority (NCTA), 1578 Mail Service Center, Raleigh, North Carolina, 27699–1578, Telephone: (919) 707–2700; email: *jhharris1@ncdot.gov.* NCTA's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing a Record of Decision (ROD) for the following highway project in the State of North Carolina: The Gaston East-West Connector, a 22-mile long, multi-lane, fully access-controlled, new location toll road. The project is also known as State Transportation Improvement Program (STIP) Project U–3321. The project is also locally known as the Garden Parkway. The purpose of the proposed action is to improve east-west transportation mobility in the area around the City of Gastonia, between Gastonia and the Charlotte metropolitan area, and particularly to establish direct access between the rapidly growing area of southwest Gaston County and western Mecklenburg County. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on December 21, 2010, and the FHWA Record of Decision (ROD) issued on February 29, 2012 approving the Gaston East-West Connector project, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA or NCTA at the addresses provided above. The FEIS and ROD can be viewed and downloaded from the project Web site at *www.ncdot.gov/projects/gardenparkway* or viewed at the offices of the North Carolina Turnpike Authority, 1 South Wilmington Street, Raleigh, North Carolina, 27601. A final decision regarding section 404 permits for this project has not yet been made. This notice, therefore, does not apply to the section 404 permitting process for this project.

This notice applies to all Federal agency actions and decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287); Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O.13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(1)(1).

Issued on: March 5, 2012

George Hoops,

Major Projects Engineer, Federal Highway Administration, Raleigh, North Carolina.

[FR Doc. 2012–6025 Filed 3–12–12; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35582]

Rail-Term Corp.—Petition for Declaratory Order

On December 14, 2011, Rail-Term Corp. (RTC) filed a petition for an order declaring that it is not a ''rail carrier'' within the definition at 49 U.S.C. 10102(5), and therefore not subject to the Board's jurisdiction. The Railroad Retirement Board (Retirement Board) determines coverage of employers and employees under the Railroad Retirement Act, 45 U.S.C. 231 *et seq.* (Retirement Act) and the Railroad Unemployment Insurance Act, 45 U.S.C. 351 *et seq.* (Insurance Act). The Retirement Act and Insurance Act both define an ''employer'' as a carrier by rail subject to the jurisdiction of the Surface Transportation Board (STB or Board). *See* 45 U.S.C. 231(a)(1)(i); 45 U.S.C. 351(b). The Retirement Board held that RTC was a ''covered employer'' in its initial decision and on reconsideration.[1]

RTC appealed the reconsideration decision of the Retirement Board to the D.C. Circuit Court of Appeals.[2] The D.C. Circuit held the petition for review in abeyance to allow RTC to petition the STB for a declaratory order on the question of whether RTC is a rail carrier under 49 U.S.C. 10102(5).

On January 20, 2012, RTC filed a request for a procedural schedule.

[1] On January 28, 2011, the Retirement Board issued Board Coverage Decision 11–14, finding again that RTC is a ''covered employer.''

[2] *Rail-Term Corp.* v. *R.R. Ret. Bd.,* No. 11–1093 (D.C. Cir., filed Nov. 14, 2011).

Under the schedule, RTC requests that after a declaratory order proceeding has been instituted, opening comments be due on day 30; reply comments be due on day 60; RTC's rebuttal comments be due on day 75; and a decision by the Board be served on day 135. On January 23, 2012, the American Train Dispatchers Association (ATDA) filed an opposition to the request for a procedural schedule. ATDA states that there is no reason to prolong the case by requesting additional comments and briefings.[3]

The petition for a declaratory order raises issues that require consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 721(a). An accurate and complete record is required for the Board to determine whether it has jurisdiction over RTC. Therefore, RTC and ATDA are directed to supplement the record in this proceeding by March 28, 2012, with copies of their respective filings submitted to the Retirement Board and D.C. Circuit in the course of those proceedings. If parties other than RTC and ATDA submitted filings before the Retirement Board and D.C. Circuit, RTC must submit copies of those filings, as well as any transcripts of proceedings before those bodies. Because this additional information will assist the Board in making a jurisdictional determination, no further briefings from the parties are necessary, and the request for a procedural schedule is denied.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

It Is Ordered

1. The request for institution of a declaratory order proceeding is granted.
2. RTC and ATDA are directed to supplement the record by March 28, 2012.
3. The request for a procedural schedule is denied.
4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Decided: March 7, 2012.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–5991 Filed 3–12–12; 8:45 am]

BILLING CODE 4915–01–P

[3] After RTC filed its petition for a declaratory order, the Retirement Board and ATDA filed comments in response.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of one individual whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the individual identified in this notice pursuant to section 805(b)(2) and (3) of the Kingpin Act is effective on March 7, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of foreign persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On March 7, 2012, the Director of OFAC designated an individual whose property and interests in property are blocked pursuant to section 805(b)(2) and (3) of the Foreign Narcotics Kingpin Designation Act.

The additional designee is as follows:

1. BAGHBANI, Gholamreza (a.k.a. BAQBANI, Qolam Reza; a.k.a. BAQBANI, Mohammad Akhusa); DOB 5 Jan 1961; alt. DOB 1947; POB Zabol, Iran; citizen Iran; Islamic Revolutionary Guard Corps—Qods Force General (individual) [SDNTK]

Dated: March 7, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–5940 Filed 3–12–12; 8:45 am]

BILLING CODE 4810–AL–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—March 26, 2012, Manassas, VA.

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 March 26, 2012, to address ''Developments in China's Nuclear and Cyber Programs.''

Background: This is the third public hearing the Commission will hold during its 2012 report cycle to collect input from academic, industry, and

government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The March 26 hearing will examine recent trends in China's computer exploitations and China's nuclear forces and strategies. The hearing will be co-chaired by Commissioners Larry Wortzel and Michael Wessel. Any interested party may file a written statement by March 23, 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: Monday March 26, 2012, 9 a.m.–3 p.m. Eastern Time. A detailed agenda for the hearing 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. Reservations are not required to attend the hearing.

ADDRESSES: The hearing will be held at the Hylton Performing Arts Center, 10960 George Mason Circle Manassas, VA 20109. Reservations are not required to attend the hearing.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Tim Lipka, 444 North Capitol Street NW., Suite 602, Washington DC 20001; phone: 202–624–1407, or via email at *contact@uscc.gov.* Reservations are not required to attend the hearing.

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: March 7, 2012.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2012–5959 Filed 3–12–12; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Geriatrics and Gerontology Advisory Committee will be held on April 11–12, 2012, in Room 530 at the Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC. On April 11, the session will begin at 8:30 a.m. and end at 5 p.m. On April 12, the session will begin at 8 a.m. and end at 12 noon. This meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology. The Committee assesses the capability of VA health care facilities and programs to meet the medical, psychological, and social needs of older Veterans and evaluates VA programs designated as Geriatric Research, Education, and Clinical Centers.

The meeting will feature presentations and discussions on VA's geriatrics and extended care programs, aging research activities, updates on VA's employee staff working in the area of geriatrics (to include training, recruitment and retention approaches), Veterans Health Administration (VHA) strategic planning activities in geriatrics and extended care, recent VHA efforts regarding dementia and program advances in palliative care, and performance and oversight of VA Geriatric Research, Education, and Clinical Centers.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Mrs. Marcia Holt-Delaney, Program Analyst, Office of Geriatrics and Extended Care (10P4G), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or via email at *Marcia.Holt-Delaney@va.gov.* Individuals who wish to attend the meeting should contact Mrs. Holt-Delaney at (202) 461–6769.

Dated: March 7, 2012.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–5980 Filed 3–12–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 77 Tuesday,
No. 49 March 13, 2012

Part II

Environmental Protection Agency

40 CFR 52
Approval and Promulgation of Implementation Plans; State of Nevada; Revised Format for Materials Incorporated by Reference; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NV 126–NBK; FRL–9634–9]

Approval and Promulgation of Implementation Plans; State of Nevada; Revised Format for Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format for materials submitted by the State of Nevada that are incorporated by reference (IBR) into the Nevada State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the State of Nevada and approved by EPA. This format revision will primarily affect the ''Identification of plan'' section, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office. EPA is also adding a table in the ''Identification of plan'' section which summarizes the approval actions that EPA has taken on the non-regulatory and quasi-regulatory portions of the Nevada SIP.

DATES: *Effective Date:* This rule is effective on March 13, 2012.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901;

Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave. NW., Washington, DC 20460; and

National Archives and Records Administration.

If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: 202–566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.federal-register/cfr/ibr-locations.html*.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' are used, we mean EPA. Information is organized as follows:

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A. What a SIP Is
B. How EPA Enforces SIPs
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I. Background

A. What a SIP Is

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces SIPs

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions upon which EPA must formally act. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the Federally approved SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), title 40 of the Code of Federal Regulations (40 CFR part 52). The actual state regulations approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference'' (IBR'd) which means that EPA has approved a given state regulation with a specific effective date. This format allows both EPA and the public to know which measures are contained in a given SIP and ensures that the state is enforcing the regulations. It also allows EPA and the public to take enforcement action, should a state not enforce its SIP-approved regulations.

C. How the State and EPA Updates the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA must, from time to time, take action on SIP revisions containing new and/or revised regulations in order to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for IBR'ing Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR).

EPA began the process of developing: (1) A revised SIP document for each state that would be IBR'd under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the ''Identification of Plan'' sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and ''Identification of Plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

D. How EPA Compiles the SIPs

The Federally-approved regulations, source-specific permits, and nonregulatory provisions (entirely or portions of) submitted by each state agency have been compiled by EPA into a ''SIP compilation.'' The SIP compilation contains the updated regulations, source-specific permits, and nonregulatory provisions approved by EPA through previous rulemaking actions in the **Federal Register**.

E. How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the regulations, part two contains the source-specific requirements that have been approved as part of the SIP, and part three contains nonregulatory provisions that have been EPA approved. Each part consists of a table of identifying information for each SIP-approved regulation, each SIP-approved source-specific permit, and each nonregulatory SIP provision. In this action, EPA is publishing the tables summarizing the applicable SIP requirements for Nevada. The EPA Regional Offices have the primary responsibility for updating the compilations and ensuring their accuracy.

F. Where You Can Find a Copy of the SIP Compilation

EPA Region IX developed and will maintain the compilation for Nevada. A copy of the full text of Nevada's regulatory and source-specific SIP compilation will also be maintained at NARA and EPA's Air Docket and Information Center.

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the ''Identification of Plan'' section and included additional information to clarify the enforceable elements of the SIP. The revised Identification of Plan section contains five subsections:

1. Purpose and scope.
2. Incorporation by reference.
3. EPA-approved regulations.
4. EPA-approved source-specific permits.
5. EPA-approved nonregulatory and quasi-regulatory provisions such as air quality attainment plans, rate of progress plans, maintenance plans, monitoring networks, and small business assistance programs.

H. When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP become Federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable Identification of Plan section found in each subpart of 40 CFR part 52.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA retains the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new system and enforceability of previously approved SIP measures and will decide whether or not to retain the Identification of Plan appendices for some further period.

II. What EPA Is Doing in This Action

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

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

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (63 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 802(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective of March 13, 2012. EPA will submit a report containing this rule and other required information to the U.S.

Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** The change in format to the ''Identification of plan'' section for the State of Arizona are not a 'major rule' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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

List of Subjects in 40 CFR Part 52

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

Dated: September 28, 2011.

Keith Takata,

Acting Regional Administrator Region IX.

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

PART 52—[AMENDED]

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

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

Subpart DD—State of Nevada

§ 52.1470 [Redesignated as § 52.1490]

■ 2. Section 52.1470 is redesignated as § 52.1490.

■ 3. New § 52.1470 is added to read as follows:

§ 52.1470 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for the State of Nevada under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) and (d) of this section with an EPA approval date prior to September 28, 2010, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register.** Entries in paragraphs (c) and (d) of this section with EPA approval dates after September 28, 2010, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region IX certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of September 28, 2010.

(3) Copies of the materials incorporated by reference may be inspected at the Region IX EPA Office at 75 Hawthorne Street, San Francisco, CA 94105; Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave. NW., Washington, DC; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA approved regulations.*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Nevada Administrative Code, Chapter 445B, Air Controls, Air Pollution; Nevada Administrative Code, Chapter 445, Air Controls, Air Pollution; Nevada Air Quality Regulations—Definitions				
445B.001	Definitions	9/24/04	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490 (c)(66)(i)(A)(*3*)(ii).
445.431	''Acid mist'' defined	8/28/79	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.002	''Act'' defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.004	''Administrator'' defined	10/14/82	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(i).*
445B.005	''Affected facility'' defined	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445B.006	''Affected source'' defined	10/25/01	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(v).*
445B.009	''Air-conditioning equipment'' defined.	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445.436	''Air contaminant'' defined	8/28/79	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.011	''Air pollution'' defined	3/5/98	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(ii).*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.015	''Alternative method'' defined.	10/30/95	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(7)(i).*
445B.018	''Ambient air'' defined	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(2)(ii).*
445B.022	''Atmosphere'' defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(1)(i).*
445.445	''Barite'' defined	1/25/79	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.447	''Barite grinding mill'' defined.	1/25/79	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.030	''British thermal units'' defined.	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(2)(ii).*
445.458	''Calcine'' defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.464	''Coal'' defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.470	''Colemanite'' defined	11/17/78	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.471	''Colemanite processing plant'' defined.	11/17/78	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.042	''Combustible refuse'' defined.	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(1)(i).*
Article 1.36	Commenced	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.0425	''Commission'' defined	3/5/98	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(3)(ii).*
Article 1.42	Construction	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
Article 1.43	Contiguous property	11/7/75	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.047	''Continuous monitoring system'' defined.	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(1)(i).*
445.482	''Converter'' defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.051	''Day'' defined	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(2)(ii).*
445B.053	''Director'' defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(1)(i).*
445.492	''Dryer'' defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
Article 1.60	Effective date	12/27/77	46 FR 43141 (8/27/81)	Submitted on 12/29/78. See 40 CFR 52.1490(c)(14)(vii).
445B.055	''Effective date of the program'' defined.	12/13/93	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(2)(v).*
445B.056	''Emergency'' defined	12/13/93	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(2)(v).*
445B.058	''Emission'' defined	3/5/98	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(3)(ii).*
445B.059	''Emission unit'' defined	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(3)(i).*
445B.060	''Enforceable'' defined	10/14/82	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)*(2)(i).*
445B.061	''EPA'' defined	12/13/93	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(2)(v).*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.062	"Equivalent method" defined.	10/30/95	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*7)(i).*
445B.063	"Excess emissions" defined	10/31/05	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490 (c)(66)(i)(A)(*3)(iii).*
Article 1.72	Existing facility	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
Article 1.73	Existing source	11/7/75	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445.512	"Floating roof" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.513	"Fossil fuel" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.072	"Fuel" defined	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(ii).*
445B.073	"Fuel-burning equipment" defined.	9/19/90	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(iii).*
445B.075	"Fugitive dust" defined	11/15/94	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(vi).*
445B.077	"Fugitive emissions" defined.	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445B.080	"Garbage" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.084	"Hazardous air pollutant" defined.	12/13/93	71 FR 71486 (12/11/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*6)(ii).*
445B.086	"Incinerator" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445.536	"Lead" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.091	"Local air pollution control agency" defined.	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
"Article 1– Definitions: No. 2–LAER".	Lowest achievable emission rate.	8/28/79	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(i).
Article 1.104	Major stationary source	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.095	"Malfunction" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(i).*
445B.097	"Maximum allowable throughput" defined.	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(ii).*
Article 1.109	Modification	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.103	"Monitoring device" defined	1/11/96	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(vi).*
Article 1.111	Motor vehicle	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.106	"Multiple chamber incinerator" defined.	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(i).*
Article 1.114	New source	11/7/75	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.109	"Nitrogen oxides" defined	11/15/94	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(vi).*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.112	"Nonattainment area" defined.	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445B.113	"Nonroad engine" defined	6/1/01	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3)(iv).*
445B.1135	"Nonroad vehicle" defined	6/1/01	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3)(iv).*
445B.116	"Odor" defined	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445B.119	"One-hour period" defined	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(ii).*
445B.121	"Opacity" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(i).*
445B.122	"Open burning" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(i).*
445.559	"Operating permit" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.125	"Ore" defined	11/17/78	71 FR 15040 (3/27/06)	Originally adopted on 9/12/78. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(iii).*
445B.127	"Owner or operator" defined.	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(i).*
445B.129	"Particulate matter" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56) (i)(A)(*1)(i).*
445B.130	"Pathological wastes" defined.	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445B.134	Person	9/18/06	72 FR 19801 (4/20/07)	Most recently approved version was submitted on 12/8/06. See 40 CFR 52.1490(c)(62)(i)(A)(*1*).
445.565	"Petroleum" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.135	"PM_{10}" defined	12/26/91	71 FR 15040 (3/27/06)	Submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*2)(iv).*
Article 1.131	Point source	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445.570	"Portland cement plant" defined.	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.574	"Precious metal" defined	8/28/79	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.575	"Precious metal processing plant" defined.	8/28/79	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.144	"Process equipment" defined.	12/4/76	71 FR 15040 (3/27/06)	Most recently version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A) (*1)(i).*
445B.145	"Process weight" defined	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445.585	"Process weight rate" defined.	8/28/79	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.151	"Reference conditions" defined.	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(ii).*
445B.152	"Reference method" defined.	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445.592	"Registration certificate" defined.	8/28/79	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.153	"Regulated air pollutant" defined.	10/31/05	73 FR 19144 (4/9/08)	Submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(i)(A)(*3)(iii).*
445.597	"Roaster" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.161	"Run" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.163	"Salvage operation" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.167	"Shutdown" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.168	"Single chamber incinerator" defined.	12/27/77	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(ii).*
Article 1.171	Single source	11/7/75	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.172	"Six-minute period" defined	12/4/76	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490 (c)(66)(i)(A)(*1)(i*).
445.618	"Slag" defined	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.174	"Smoke" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.176	"Solid waste" defined	12/4/76	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*1)(i).*
445B.177	"Source" defined	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
Article 1.182	Special mobile equipment	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.180	"Stack and chimney" defined.	10/30/95	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i).*
445B.182	"Standard" defined	11/15/94	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*2)(vi).*
445B.185	"Start-up" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*1)(i).*
Article 1.187	Stationary source	12/4/76	43 FR 36932 (8/21/78)	Submitted on 12/10/76. See 40 CFR 52.1490(c)(12).
445B.190	"Stop order" defined	12/13/93	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490 (c)(66)(i)(A)(*2*)(*i*).
445.633	"Submerged fill pipe" defined.	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.198	"Uncombined water" defined.	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*1)(i).*
445.649	"Violation" defined	8/28/79	49 FR 11626 (3/27/84)	Submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.202	"Volatile organic compounds" defined.	11/15/94	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*6)(iii).*
445B.205	"Waste" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*1)(i).*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.207	"Wet garbage" defined	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*1)(i).*
445B.209	"Year" defined	10/22/87	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*2)(ii).*
445B.211	Abbreviations	9/24/04	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3)(vii).*
Nevada Administrative Code, Chapter 445B, Air Controls, Air Pollution; Nevada Administrative Code, Chapter 445, Air Controls, Air Pollution; Nevada Air Quality Regulations—General Provisions				
445B.220	Severability	1/1/07	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(i)(A)(*3)(v).*
445B.22017	Visible emissions: Maximum opacity; determination and monitoring of opacity.	4/1/06	73 FR 19144 (4/9/08)	Most recently approved version submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(A)(*3*)(*iii*).
445B.2202	Visible emissions: Exceptions for stationary sources.	4/1/06	73 FR 19144 (4/9/08)	Most recently approved version submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(A)(*3*)(*iii*).
Article 16.3.3, subsections 16.3.3.2 and 16.3.3.3.	Standard for Opacity [Portland cement plants].	3/31/77	47 FR 26386 (6/18/82)	Submitted on 12/29/78. See 40 CFR 52.1490(c)(14)(viii). Subsection 16.3.3.1 was deleted without replacement at 72 FR 25971 (5/8/07).
445.729	Process weight rate for calculating emission rates.	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
Article 7.2.5.1	[Establishes maximum allowable particulate emissions rate for the first barite grinding mill at Milchem Inc. near Battle Mountain].	12/3/80	47 FR 26386 (6/18/82)	Submitted on 11/5/80. See 40 CFR 52.1490(c)(22)(ii).
445.808(1), (2)(a–c), (3), (4), and (5).	[Establishes standards for maximum allowable particulate emissions rate and discharge opacity for certain barite grinding mills at IMCO Services and at Dresser Industries, in or near Battle Mountain].	8/24/83 (adopted)	49 FR 11626 (3/27/84)	Submitted on 9/14/83. See 40 CFR 52.1490(c)(26)(i)(A).
445.816(1), (2)(d), (3), (4), and (5).	[Establishes standards for maximum allowable particulate emissions rate and discharge opacity for certain processing plants for precious metals at the Freeport Gold Company in the North Fork area].	8/24/83 (adopted)	49 FR 11626 (3/27/84)	Submitted on 9/14/83. See 40 CFR 52.1490(c)(26)(i)(A).
445.730	Colemanite flotation processing plants.	11/17/78	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445B.22027	Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates.	3/5/98	72 FR 25971 (5/8/07)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3*)(ii).
445B.2203	Emissions of particulate matter: Fuel-burning equipment.	9/27/99	72 FR 25971 (5/8/07)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3*)(iii).
445B.22033	Emissions of particulate matter: Sources not otherwise limited.	3/5/98	72 FR 25971 (5/8/07)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3*)(ii).
445B.22037	Emissions of particulate matter: Fugitive dust.	10/30/95	72 FR 25971 (5/8/07)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3)(i).*

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Article 8, subsection 8.2.1.	[Indirect Heat Transfer Fuel Burning Equipment—Sulfur emission limits].	1/28/72	37 FR 10842 (5/31/72)	Submitted on 1/28/72. See 40 CFR 52.1490(b).
Article 8.2.2	[''Sulfur emission'' defined for purposes of Article 8.].	12/4/76	46 FR 43141 (8/27/81)	Submitted on 12/29/78. See 40 CFR 52.1490(c)(14)(vii).
445B.2204	''Sulfur emission'' defined ...	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*1*)(i).
445B.22043	Sulfur emissions: Calculation of total feed sulfur.	9/24/04	73 FR 19144 (4/9/08)	Most recently approved version submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(A)(*3*)(*ii*).
445B.22047	Sulfur emissions: Fuel-burning equipment.	9/27/99	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)(*3*)(*iii*).
445B.2205	Sulfur emissions: Other processes which emit sulfur.	9/24/04	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(A)(*3*)(*ii*).
445B.22067	Open burning	4/15/04	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(3)(vi).*
445B.2207	Incinerator burning	4/15/04	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(3)(vi).*
445B.22083	Construction, major modification or relocation of plants to generate electricity using steam produced by burning of fossil fuels.	10/31/05	73 FR 20536 (4/16/08)	Most recently approved version was submitted on 8/20/07. See 40 CFR 52.1490(c)(67)(i)(A)(*1*).
445B.2209	Reduction of animal matter	12/4/76	71 FR 15040 (3/27/06)	Originally adopted on 9/16/76. Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(1)(i).*
445B.22093	Organic solvents and other volatile compounds.	10/31/05	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(i)(A)*(3)(iii).*
445B.22097	Standards of quality for ambient air.	4/26/04	71 FR 15040 (3/27/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(3)(vi).*
445B.225	Prohibited conduct: Concealment of emissions.	10/30/95	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(i)(A)(*3*)(*i*).
445B.227	Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure.	1/11/96	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490(c)(56)(i)(A)*(3)(i).*
445B.229	Hazardous emissions: Order for reduction or discontinuance.	10/30/95	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490(c)(66)(i)(A)(*3*)(*i*).
445B.230	Plan for reduction in emissions.	9/18/06	72 FR 19801 (4/20/07)	Most recently approved version was submitted on 12/8/06. See 40 CFR 52.1490(c)(62)(i)(A)*(1).*
445.667	Excess emissions: Scheduled maintenance; testing; malfunction.	8/28/79	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
Article 2.5 (''Scheduled Maintenance, Testing, and Breakdown or Upset''), subsection 2.5.4.	[related to breakdown or upset].	11/7/75	43 FR 1341 (1/9/78)	Submitted on 10/31/75. See 40 CFR 52.1490(c)(11). Article 2.5, subsection 2.5.4 states: ''Breakdown or upset, determined by the Director to be unavoidable and not the result of careless or marginal operations, shall not be considered a violation of these regulations.''

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.250	Notification of Director: Construction, reconstruction and initial start-up; demonstration of continuous monitoring system performance.	10/31/05	73 FR 20536 (4/16/08)	Most recently approved version was submitted on 8/20/07. See 40 CFR 52.1490(c)(67)(i)(A)(*1*).
445B.252	Testing and sampling	10/30/03	73 FR 20536 (4/16/08)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*3)(i)*.
445B.256	Monitoring systems: Calibration, operation and maintenance of equipment.	10/30/95	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*7)(i)*.
445B.257	Monitoring systems: Location.	12/4/76	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*5*)(*i*).
445B.258	Monitoring systems: Verification of operational status.	9/18/06	72 FR 19801 (4/20/07)	Most recently approved version was submitted on 12/8/06. See 40 CFR 52.1490(c)(62)(i)(A)(*1)*.
445B.259	Monitoring systems: Performance evaluations.	9/18/06	72 FR 19801 (4/20/07)	Most recently approved version was submitted on 12/8/06. See 40 CFR 52.1490(c)(62)(i)(A)(*1)*.
445B.260	Monitoring systems: Components contracted for before September 11, 1974.	9/18/06	72 FR 19801 (4/20/07)	Most recently approved version was submitted on 12/8/06. See 40 CFR 52.1490(c)(62)(i)(A)(*1)*.
445B.261	Monitoring systems: Adjustments.	12/4/76	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*5*)(*i*).
445B.262	Monitoring systems: Measurement of opacity.	10/30/03	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*7)(iii)*.
445B.263	Monitoring systems: Frequency of operation.	12/4/76	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*5*)(*i*).
445B.264	Monitoring systems: Recordation of data.	9/25/00	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*7*)(*ii*).
445B.265	Monitoring systems: Records; reports.	7/2/84	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*6*)(*i*).
445B.267	Alternative monitoring procedures or requirements.	10/30/03	71 FR 71486 (12/11/06)	Most recently approved version was submitted on 1/12/06. See 40 CFR 52.1490 (c)(56)(i)(A)(*7)(iii)*.
445B.275	Violations: Acts constituting; notice.	5/4/06	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490 (c)(66)(i)(A)(*3)(iv)*.
445B.277	Stop orders	5/4/06	73 FR 19144 (4/9/08)	Most recently approved version was submitted on 6/26/07. See 40 CFR 52.1490 (c)(66)(i)(A)(*3)(iv)*.
445.694	Emission discharge information.	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.699	Violations: Administrative fines.	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.764	Reduction of employees' pay because of use of system prohibited.	8/17/81	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
Nevada Administrative Code, Chapter 445, Air Controls, Air Pollution; Nevada Air Quality Regulations—Registration Certificates and Operating Permits				
Article 3.1.6	[relates to application forms]	11/7/75	43 FR 1341 (1/9/78)	Submitted on 10/31/75. See 40 CFR 52.1490(c)(11).
445.704	Registration certificates and operating permits required.	12/4/76	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.705	Exemptions	11/7/75	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445.706(1)	Application date; payment of fees.	11/7/75	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A). NAC 445.706(2) rescinded at 73 FR 20536 (4/16/08).
445.707	Registration certificates: Prerequisite; application; fee; issuance, denial; expiration.	8/28/79	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.712	Operating permits: Prerequisite; application; fee; issuance, denial; posting.	8/28/79	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.713	Operating permits: Renewal	11/7/75	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.714	Operating permits: Replacement of lost or damaged permits.	11/7/75	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.715	Operating permits: Revocation.	11/7/75	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
445.716	Operating permits: Change of location.	12/15/77	49 FR 11626 (3/27/84)	Most recently approved version was submitted on 10/26/82. See 40 CFR 52.1490(c)(25)(i)(A).
Nevada Air Quality Regulations—Point Sources and Registration Certificates				
Nevada Air Quality Regulations (NAQR), Article 13 (“Point Sources”), subsection 13.1, paragraph 13.1.1.	General Provisions for the Review of New Sources.	12/15/77	47 FR 27070 (6/23/82)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
NAQR, Article 13, subsection 13.1, paragraph 13.1.3 [excluding 13.1.3(3)].	[related to registration certificates for point sources subject to the requirement for an environmental evaluation; additional requirements for such sources to be located in nonattainment areas].	2/28/80	46 FR 21758 (4/14/81)	Submitted on 3/17/80. See 40 CFR 52.1490(c)(18)(i). NAQR article 13.1.3(3) was deleted without replacement at 73 FR 20536 (4/16/08). See 40 CFR 52.1490(c)(18)(i)(A).
NAQR Article 13, subsection 13.1, paragraphs 13.1.4–13.1.7.	[related to registration certificates, generally].	10/25/74	40 FR 13306 (3/26/75)	Submitted on 11/12/74. See 40 CFR 52.1490(c)(8). EPA’s 1975 final rule was later clarified and revised at 43 FR 1341 (1/9/78)
NAQR Article 13, subsection 13.2.	[relates to thresholds used to identify sources subject to environmental evaluation requirement].	12/15/77	47 FR 27070 (6/23/82)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsection 13.2 includes paragraphs 13.2.1–13.2.4.
NAQR Article 13, subsection 13.3.	Environmental evaluation ...	12/15/77	47 FR 27070 (6/23/82)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsection 13.3 includes paragraph 13.3.1, subparagraphs 13.3.1.1 and 13.3.1.2.
Nevada Revised Statutes, Title 58, Energy; Public Utilities and Similar Entities: Regulation of Public Utilities Generally				
704.820	Short title	1/1/79	47 FR 15790 (4/13/82)	NRS 704.820 to 704.900, inclusive, is cited as the Utility Environmental Protection Act. Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.825	Declaration of legislative findings and purpose.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.830	Definitions	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.840	“Commence to construct” defined.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.845	“Local government” defined	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.850	“Person” defined	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
704.855	"Public utility," "utility" defined.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.860	"Utility facility" defined	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.865	Construction permit: Requirement; transfer; exceptions to requirement.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.870	Construction permit application: Form, contents; filing; service; public notice.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.875	Review of application by state environmental commission.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.880	Hearing on application for permit.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.885	Parties to permit proceeding; appearances; intervention.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.890	Grant or denial of application; required findings; service of copies of order.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.892	Grant, denial, conditioning of permit for plant for generation of electrical energy for export.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.895	Rehearing; judicial review	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
704.900	Cooperation with United States, other states.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(i).
General Order No. 3, Rules of Practice and Procedure before the Public Service Commission				
Rule 25	Construction Permits—Utility Environmental Protection Act.	1/1/79	47 FR 15790 (4/13/82)	Submitted on 10/13/80. See 40 CFR 52.1490(c)(21)(ii).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—General Provisions				
445B.400	Scope	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.401	Definitions	8/21/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.403	"Approved inspector" defined.	8/19/94	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4045	"Authorized inspection station" defined.	8/19/94	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.405	"Authorized station" defined	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.408	"Carbon monoxide" defined	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.409	"Certificate of compliance" defined.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4092	"Certified on-board diagnostic system" defined.	8/21/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4096	"Class 1 approved inspector" defined.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4097	"Class 1 fleet station" defined.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4098	"Class 2 approved inspector" defined.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.4099	"Class 2 fleet station" defined.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.410	"CO_2" defined	9/28/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.411	"Commission" defined	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.413	"Department" defined	1/1/86	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.415	"Director" defined	8/19/94	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.416	"Emission" defined	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.418	"EPA" defined	9/28/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.419	"Established place of business" defined.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.420	"Evidence of compliance" defined.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.421	"Exhaust emissions" defined.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.422	"Exhaust gas analyzer" defined.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.424	"Fleet station" defined	8/19/94	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4247	"Gross vehicle weight rating" defined.	8/19/94	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.426	"Heavy-duty motor vehicle" defined.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.427	"Hydrocarbon" defined	9/28/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.428	"Hz" defined	9/28/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.432	"Light-duty motor vehicle" defined.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.433	"Mini motor home" defined	10/1/83	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.434	"Motor home" defined	10/1/83	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.435	"Motor vehicle" defined	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.440	"New motor vehicle" defined.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.442	"Opacity" defined	1/1/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.443	"Person" defined	1/1/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.444	"ppm" defined	9/28/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.449	"Smoke" defined	1/1/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.450	"Special mobile equipment" defined.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.451	"Standard" defined	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4515	"State electronic data transmission system" defined.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.452	"Tampering" defined	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4525	"Test station" defined	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.453	"Truck" defined	10/1/83	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.454	"Used motor vehicle" defined.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.455	"Van conversion" defined	10/1/83	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4553	"Vehicle inspection report" defined.	8/21/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4556	"Vehicle inspection report number" defined.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.456	Severability	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Facilities for Inspection and Maintenance				
445B.460	Test station: License required to operate; expiration of license; ratings; performance of certain services; prohibited acts; location.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.461, except for paragraph (3)(d).	Compliance by Federal Government, state agencies and political subdivisions.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*). NAC section 445B.461(3)(d) was deleted without replacement at 74 FR 3975 (1/22/09). See 40 CFR 52.1490(c)(71)(i)(A)(*3*).
445B.462	Test station: Application for license to operate; inspection of premises; issuance of license.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.463	Test station: Grounds for denial, revocation or suspension of license; reapplication; permanent revocation of license.	8/21/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.464	Test station: Hearing concerning denial, suspension or revocation of license.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.465	Authorized station or authorized inspection station: Requirements for bond or deposit.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.466	Authorized station or authorized inspection station: Liability under bond or deposit; suspension and reinstatement of licenses.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.467	Authorized station or authorized inspection station: Disbursement, release or refund of bond or deposit.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.468	Authorized stations and authorized inspection stations: Scope of coverage of bond or deposit.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.469	Authorized station or authorized inspection station: Posting of signs and placards.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.470	Test station: Display of licenses; availability of reference information.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.471	Test station: Advertising; provision by Department of certain informational material for public.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.472	Test station: Records of inspections and repairs; inspection of place of business; audit of exhaust gas analyzers.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.473	Test station: Notice of wrongfully distributed or received vehicle inspection reports; inventory of vehicle inspection reports.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.474	Test station: Failure to employ approved inspector.	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.475	Authorized station or class 2 fleet station: Requirements for employees.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.476	Test station: Willful failure to comply with directive; suspension of license; reapplication after revocation of license.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.478	Fleet station: Licensing; powers and duties.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.480	Test station: Requirements concerning business hours.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Inspectors				
445B.485	Prerequisites to licensing	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.486	Examination of applicants for licensing.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.487	Denial of license	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.489	Grounds for denial, suspension or revocation of license.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.490	Hearing on suspension or revocation of license.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.491	Temporary suspension or refusal to renew license.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.492	Duration of suspension; surrender of license.	12/20/79	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.493	Limitation on reapplication after revocation or denial or license; surrender of revoked license; permanent revocation of license.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.495	Contents of license	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.496	Expiration of license	1/1/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.497	Requirements for renewal of license.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.498	Performance of emission inspection without license prohibited; expiration of license; license ratings.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4983	Issuance of access code to approved inspector; use of access code and identification number.	2/23/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.4985	Violations	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.499	Fees	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.501	Report of change in place of employment or termination of employment.	12/20/79	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.502	Submission of certificate of employment to report change.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Exhaust Gas Analyzers				
445B.5049	Connection to state electronic data transmission system.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.505	Availability of list of approved analyzers and their specifications.	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5052	Approved analyzer: Use and equipment; deactivation by Department.	6/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5055	Revocation of approval of analyzer.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5065	Manufacturer of approved analyzer: Required warranty.	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5075	Manufacturer of approved analyzer: Required services; administrative fine for violations.	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Control of Emissions: Generally				
445B.575	Device to control pollution: General requirement; alteration or modification.	3/1/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

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State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.576	Vehicles powered by gasoline or diesel fuel: Restrictions on visible emissions and on idling of diesel engines.	10/22/92	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.577	Devices used on stationary rails: Restrictions on visible emissions.	1/1/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.578	Exceptions to restrictions on visible emissions.	10/22/92	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.579	Inspection of vehicle: Devices for emission control required.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.580	Inspection of vehicle: Procedure for certain vehicles with model year of 1995 or older and heavy-duty vehicles with model year of 1996 or newer.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5805	Inspection of vehicle: Procedure for light-duty vehicles with model year of 1996 or newer.	8/21/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.581	Inspection of vehicle: Place and equipment for performance.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5815	Inspection of vehicle: Certified on-board diagnostic systems.	3/1/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.582	Repair of vehicle; reinspection or testing.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.583	Evidence of compliance: Purpose; records.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.584	Evidence of compliance: Purchase of vehicle inspection report numbers.	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.585	Evidence of compliance: Issuance by approved inspector.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.586	Evidence of compliance: Return of fee.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.587	Test of light-duty motor vehicles powered by diesel engines: Equipment for measurement of smoke opacity.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.588	Testing of light-duty motor vehicles powered by diesel engines: List of approved equipment.	7/17/03	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.589	Testing of light-duty motor vehicles powered by diesel engines: Procedure; certificate of compliance; effect of failure; lack of proper fuel cap.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.5895	Dissemination of list of authorized stations.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.590	Waiver of standards for emissions.	5/14/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.591	Form for registration of vehicle in area where inspection of vehicle not required.	1/1/88	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

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State citation	Title/subject	State effective date	EPA approval date	Additional explanation
445B.5915	Requirements for registration of vehicle temporarily being used and maintained in another state.	9/1/06	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.592	Applicability of certain standards for emissions and other requirements.	10/31/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.593	Evidence of compliance required for certain vehicles based in Clark County.	10/31/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.594	Evidence of compliance required for certain vehicles based in Washoe County.	10/31/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.595(1)	Inspections of vehicles owned by State or political subdivisions or operated on federal installations.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*). Subsection 2 was not included in the 7/3/08 approval of NAC 445B.595. Certain paragraphs of subsection (2) were approved at 74 FR 3975 (1/22/09).
445B.595(2) (a), (b), and (c).	Inspections of vehicles owned by State or political subdivisions or operated on federal installations.	9/13/95	74 FR 3975 (1/22/09)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*4*).
445B.596	Standards for emissions	8/21/02	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.598	Imposition and statement of fee for inspection and testing; listing of stations and fees.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.599	Prescription and notice of maximum fees for inspections and testing.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.600	Procedure for setting new fee.	9/13/95	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.601	Concealment of emissions prohibited.	1/10/78	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Restored Vehicles				
445B.6115	Exemption of vehicle from certain provisions.	7/27/00	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.6125	Certification of vehicle for exemption.	3/5/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Inspection of Test Stations and Approved Inspectors				
445B.7015	Annual and additional inspections.	2/3/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.7025	Alteration of emission control system of vehicle used to conduct inspection.	2/3/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.7035	Preliminary written notice of violation; reinspection of vehicle.	2/3/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.7045	Administrative fines and other penalties for certain violations.	2/3/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).

TABLE 1—EPA-APPROVED NEVADA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Nevada Administrative Code, Chapter 445B, Air Controls, Emissions from Engines—Miscellaneous Provisions				
445B.727	Administrative fines and other penalties.	2/3/05	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
445B.735	Program for licensure to install, repair and adjust devices for control of emissions.	9/25/98	73 FR 38124 (7/3/08)	Most recently approved version was submitted on 5/11/07. See 40 CFR 52.1490(c)(71)(i)(A)(*2*).
Nevada Administrative Code, Chapter 590, Petroleum Products and Antifreeze, Fuels				
590.065 (excluding subsection (7)).	Adopted Regulation of the State Board of Agriculture LCB File No. R111–08. A regulation relating to fuel; adopting by reference a certain standard for gasoline published by ASTM International; providing exceptions; and providing other matters properly relating thereto.	1/28/10	75 FR 59090 (9/27/10)	See 40 CFR 52.1490(c)(74)(i)(B). As adopted by the Nevada Board of Agriculture. Submitted on 3/26/10 for inclusion into Appendix C of the 2008 Las Vegas Valley CO Maintenance Plan.

[1] Submitted.

TABLE 2—EPA-APPROVED LANDER COUNTY REGULATIONS

County citation	Title/Subject	County effective date	EPA approval date	Additional explanation
Lander County Ordinance LC 8–78.	Dust Ordinance	9/8/78	46 FR 21758 (4/14/81)	Was approved as part of the Lander County Air Quality Improvement Plan which was submitted on 12/29/78.

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Section 0	Definitions—Defined terms include: ''Act,'' ''Actual Emissions,'' '' Actual Initial Start-Up Date,'' ''Administrative Change,'' ''Administrator,'' ''Affected Source,'' ''Affected States,'' ''Affected Unit,'' ''Aggrieved Party,'' ''Agricultural Operations,'' ''Airplane Refueling Area,'' ''Air Pollution,'' ''Air Quality Area,'' ''Airshed Region,'' ''Air Quality Planning Region,'' ''Allowable Emissions,'' ''Ambient Air,'' ''Apex Valley,'' ''Applicable Requirement,'' ''Application Area,'' ''Asbestos,'' ''Attachment 1,'' Authority to Construct/Operating Permit Amendment,'' ''Authority to Construct Certificate'' or ''Authority to Construct,'' ''Banking,'' ''Baseline,'' ''Baseline Area,'' ''Baseline Concentration,'' ''Baseline Emissions,'' ''Begin Actual Construction,'' ''Best Available Control Technology,'' ''Best Management Practices,'' ''British Thermal Unit,'' ''Building, Structure, Facility, or Installation,'' ''Building Vent,'' ''Chemical Process,'' ''Clearing and Grubbing,'' ''Combined Tank Capacity,'' ''Combustible Refuse,'' ''Commence,'' ''Commercial and Residential Construction,'' ''Complex Source,'' ''Confidential Information,'' ''Construction,'' ''Construction Activity,'' ''Control Measure,''	10/7/04	69 FR 54006 (9/7/04)	Submitted on 10/23/03. See 40 CFR 52.1490(c)(53)(i)(A)(*1*).

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
	''Control Officer,'' ''De Minimus Permit,'' ''Designated Representative,'' ''Designated Trail,'' ''Diesel Fuel,'' ''Dispatchable Peak Shaving,'' ''Disturbed Surface Area,'' ''Draft Permit,'' ''Dust Palliative,'' ''Dust Suppressant,'' ''Easement,'' ''Easement Holder,'' ''Electric Utility Steam Generating Unit,'' ''Eldorado Valley,'' ''Emergency,'' ''Emergency Standby Generator,'' ''Emergency Standby Diesel Powered Generator,'' ''Emission'' or ''Emit,'' ''Emission Reduction Credit (ERC),'' ''Emission Unit,'' ''Emissions Allowable Under the Permit,'' ''EPA,'' ''Ethanol,'' ''Exempt Stationary Source,'' ''Existing Emission Unit,'' ''Existing Stationary Source,'' ''Federal Land Manager,'' ''Federally Enforceable,'' ''Final Permit,'' ''Flood Control Construction,'' ''Freeboard Ratio,'' ''Fuel,'' ''Fuel Burning Equipment,'' ''Fuel Oil,'' ''Fugitive Dust,'' ''Fugitive Emissions,'' ''Fugitive Gas,'' ''Garbage,'' ''Gas,'' ''Gasoline,'' ''Gasoline Dispensing Facility,'' ''Gasoline Station,'' ''General Permit,'' ''Hazardous Air Pollutant,'' ''Hearing Board,'' ''Hearing Officer,'' ''Highly Volatile Solvent,'' ''Highway Construction,'' ''Hydrographic Basin Areas'' or ''Hydrographic Areas,'' ''Incinerator,'' ''Ivanpah Valley,'' ''Large Appliances,'' ''Las Vegas Valley,'' ''Leak Free,'' ''Low Organic Solvent Coating,'' ''Lowest Achievable Emission Rate,'' ''Major Modification,'' ''Major Part 70 Source,'' ''Major Source Baseline Date,'' ''Major Stationary Source,'' ''Malfunction,'' ''Management Area,'' ''Maximum Achievable Control Technology (MACT),'' ''Maximum Achievable Control Technology (MACT) Floor,'' ''Methyl Tertiary Butyl Ether,'' ''Modification,'' ''Modified Emission Unit,'' ''Motocross Race Course,'' ''Motor Vehicle,'' ''MTBE,'' ''Multiple Chamber Incinerator,'' ''Natural Cover,'' ''Necessary Preconstruction Approvals or Permits,'' ''Net Emissions Increase,'' ''Nonattainment Area,'' ''Non-Major Source Baseline Date,'' ''Non-Metallic Mineral,'' ''Non-Metallic Mineral Processing Plant,'' ''Non-Road Easement,'' ''Normal Farm Cultural Practice,'' ''Nuisance,'' ''Odor,'' ''Off-Road Vehicle,'' ''Offset,'' ''Opacity,'' ''Open Areas and Vacant Lots,'' ''Open Fire,'' ''Operating Permit,'' ''Owner And/Or Operator,'' ''Oxygenated Gasoline,'' ''Part 70 Permit,'' ''Part 70 Permit Modification,'' ''Part 70 Permit Revision,'' ''Part 70 Program,'' ''Part 70 Source,'' ''Particulate Matter,'' ''Pave,'' ''Permit for Construction Activities,'' ''Permanent,'' ''Person,'' ''PM_{10} Nonattainment Area,'' ''PM_{10},'' ''Potential to Emit,'' ''Prevention of Significant Deterioration (PSD) Area,'' ''Prevention of Significant Deterioration (PSD) Program,''			

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
	"Prime Coat," "Process Equipment," "Process Weight," "Proposed Permit," "PSD," "Public Road," "Quantifiable," "Reclaimed Water," "Reconstruction," "Registry" or "Bank," "Regulated Air Pollutant," "Renewal," "Representative of Alleged Violator," "Responsible Official," "Road Easement," "Secondary Emissions," "Section 502(B)(10) Changes," "Section 58 ERC Bank Certificate," "Significant Source," "Single Coat," "Slow Curing (SC)," "Stack," "Stage I," "Stage II," "State," "Stationary Source," "Surplus," "Temporary Stationary Source," "Top Coat," "Top Off," "Topsoil," "Total Suspended Particulates," "Toxic Chemical Substance (TCS)," "Trench," "Trigger Date," "Unpaved Parking Lot," "Upset/Breakdown," "Vacant Lot," "Vapor," "Vapor Control System," "Vapor Tight," "Various Locations Activity" or "Various Locations Permit (VLP)," "Volatile Organic Compound (VOC)," and "Waste."			
Section 1 ("Definitions"): Subsection 1.1.	Affected Facility	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.3.	Air Contaminant	12/28/79	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.6.	Air Pollution Control Committee	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.11.	Area Source	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.12.	Atmosphere	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.16.	Board	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.23.	Commercial Off-Road Vehicle Racing	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.26.	Dust	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.28.	Existing Facility	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.29.	Existing Gasoline Station	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.30.	Fixed Capital Cost	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.36.	Fumes	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.40.	Health District	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.41.	Hearing Board	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.44.	Integrated Sampling	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 ("Definitions"): Subsection 1.50.	Minor Source	9/3/81	47 FR 26620 (6/21/82)	Submitted on 11/17/81. See 40 CFR 52/1490(c)(24)(iii).

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Section 1 (“Definitions”): Subsection 1.51.	Mist	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.57.	New Gasoline Station	9/3/81	47 FR 26620 (6/21/82)	Submitted on 11/17/81. See 40 CFR 52/1490(c)(24)(iii).
Section 1 (“Definitions”): Subsection 1.58.	New Source	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.60.	NIC	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.70.	Point Source	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.78.	Shutdown	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): [unnumbered].	Significant	9/3/81	47 FR 26620 (6/21/82)	Submitted on 11/17/81. See 40 CFR 52/1490(c)(24)(iii).
Section 1 (“Definitions”): Subsection 1.81.	Single Source	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.83.	Smoke	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.84.	Source of Air Contaminant	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.85.	Special Mobile Equipment	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.87.	Standard Commercial Equipment	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.88.	Standard Conditions	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.89.	Start Up	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.91.	Stop Order	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.95.	Uncombined Water	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 1 (“Definitions”): Subsection 1.97.	Vapor Disposal System	12/28/78	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52/1490(c)(17)(i).
Section 2: Subsections 2.1, 2.2, and 2.3.	Air Pollution Control Board	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 4: Subsections 4.1–4.11 (excluding subsection 4.7.3).	Control Officer	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsection 4.7.3, submitted on 7/24/79, was superseded by approval of amended provision at 47 FR 26386 (6/18/82).
Section 4 (Control Officer): Subsection 4.7.3.	[related to authority of control officer]	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 4 (Control Officer): Subsections 4.12, 4.12.1–4.12.3.	[related to public notification]	4/24/80	46 FR 43141 (8/27/81)	Submitted on 11/5/80. See 40 CFR 52.1490(c)(22)(i).

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Section 5: Subsection 5.1.	Interference with Control Officer	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 6: Subsection 6.1.	Injunctive Relief	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 8: Subsections 8.1, 8.2.	Persons Liable for Penalties—Punishment; Defense.	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 10	Compliance Schedules	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 11	Ambient Air Quality Standards	10/21/03	69 FR 54006 (9/7/04)	Adopted on 10/7/03 and submitted on 10/23/03. See 40 CFR 52.1490(c)(53)(i)(A)(*1*).
Section 12 (excluding subsections 12.2.18 and 12.2.20).	Preconstruction Review for New or Modified Stationary Sources.	10/7/04	69 FR 54006 (9/7/04)	Adopted on 10/7/03 and submitted on 10/23/03. See 40 CFR 52.1490(c)(53)(i)(A)(*1*).
Section 16: Subsections 16.1–16.9.	Operating Permits	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 18: Subsections 18.1–18.5.2.	Registration/Permit Fees	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 23: Subsections 23.1–23.5 (excluding subsections 23.2.1–23.3.1.2, 23.3.4–23.3.5).	Continuous Monitoring by Fossil Fuel-Fired Steam Generators.	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsections 23.2.1–23.3.1.2, 23.3.4–23.3.5, submitted on 7/24/79, were superseded by revised subsections submitted on 11/17/81 and approved at 47 FR 26386 (6/18/82).
Section 23 (Continuous Monitoring by Fossil Fuel-Fired Steam Generators): Subsections 23.2.1–23.3.1.2, 23.3.4–23.3.5).	[related to specifications for continuous monitoring].	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 24: Subsections 24.1–24.5.	Sampling and Testing—Records and Reports	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 25: Subsection 25.2.	Upset, Breakdown or Scheduled Maintenance	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsection 25.1, submitted on 7/24/79, was never approved into the SIP; see 40 CFR 52.1483 and 69 FR 54006, at 54017, 54018 (9/7/04).
Section 26: Subsections 26.1–26.3.	Emission of Visible Air Contaminants	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 27	Particulate Matter from Process Weight Rate	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 28: Subsections 28.1 and 28.2.	Fuel Burning Equipment	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Section 29	Sulfur Contents of Fuel Oil	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 30: Subsections 30.1–30.7 (excluding subsection 30.4).	Incinerators	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsection 30.4 was superseded by amended version submitted on 11/17/81 and approved at 47 FR 26386 (6/18/82).
Section 30 (Incinerators): Subsection 30.4.	[exemptions for certain types of incinerators]	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 30 (Incinerators): Subsection 30.8.	[related to maximum allowable emission rates]	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 31	Reduction of Emission of Sulfur from Primary Non-Ferrous Smelters.	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 32: Subsections 32.1, 32.2.	Reduction of Animal Matter	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 33	Chlorine in Chemical Processes	5/18/84	51 FR 29923 (8/21/86)	Submitted on 1/11/85. See 40 CFR 52.1490(c)(i)(A). See also clarification at 69 FR 54006 (9/7/04)
Section 41: Subsections 41.1–41.4.	Fugitive Dust	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 42: Subsections 42.1, 42.3 and 42.4.	Open Burning	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii). Subsection 42.2 deleted without replacement—see 40 CFR 52.1490(c)(16)(viii)(C).
Section 50	Storage of Petroleum Products	12/28/78	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ii).
Section 51	Petroleum Product Loading into Tank Trucks and Trailers.	12/28/78	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ii).
Section 52: Subsections 52.1–52.9 (excluding subsections 52.4.2.3 and 52.7.2).	Handling of Gasoline at Service Stations, Airports and Storage Tanks.	12/28/78	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ii). Subsections 52.4.2.3 and 52.7.2 were superseded by amended provisions submitted on 11/17/81 and approved at 47 FR 26386 (6/18/82).
Section 52 (Handling of Gasoline at Service Stations, Airports and Storage Tanks): Subsections 52.4.2.3 and 52.7.2.	[related to vapor recovery and sales information]	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 53	Oxygenated Wintertime Gasoline	6/3/03	69 FR 56351 (9/21/04)	Submitted on 11/10/03. See 40 CFR 52.1490(c)(52)(i)(A)(*1*). Superseded earlier version adopted on 9/25/97, submitted on 8/7/98, and approved at 64 FR 29573 (6/2/99).

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Ordinance No. 3809	An Ordinance to Suspend the Applicability and Enforceability of All Provisions of Clark County Air Quality Regulation Section 54, the Cleaner Burning Gasoline Wintertime Program; and Provide for Other Matters Properly Relating Thereto.	9/29/09	75 FR 59090 (9/27/10)	See 40 CFR 52.1490(c)(74)(i)(A). Section 54 was suspended by the Clark County Board of County Commissioners through adoption of Ordinance No. 3809 on September 15, 2009. Submitted on 3/26/10 for inclusion into Appendix C of the 2008 Las Vegas Valley CO Maintenance Plan.
Section 58	Emission Reduction Credits	10/7/04	69 FR 54006 (9/7/04) ...	Adopted on 10/7/03 and submitted on 10/23/03. See 40 CFR 52.1490(c)(53)(i)(A)(*1*).
Section 59 [excluding subsection 59.2 (''Local Offset Requirements''].	Emission Offsets	10/7/04	69 FR 54006 (9/7/04) ...	Adopted on 10/7/03 and submitted on 10/23/03. See 40 CFR 52.1490(c)(53)(i)(A)(*1*).
Section 60 (excluding subsections 60.4.2 and 60.4.3).	Evaporation and Leakage	6/28/79	46 FR 21758 (4/14/81)	Submitted on 9/18/79. See 40 CFR 52.1490(c)(17)(i). Subsections 60.4.2 and 60.4.3 were superseded by approval of amended provisions at 49 FR 10259 (3/20/84) and 47 FR 26386 (6/18/82).
Section 60: Subsection 60.4.2.	[General prohibition on use of cutback asphalt] ..	9/3/81	49 FR 10259 (3/20/84)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(vi).
Section 60: Subsection 60.4.3.	[Exceptions to subsection 60.4.2]	9/3/81	47 FR 26386 (6/18/82)	Submitted on 11/17/81. See 40 CFR 52.1490(c)(24)(iv).
Section 70: subsections 70.1–70.6.	Emergency Procedures	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 80	Circumvention	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 81	Provisions of Regulations Severable	12/28/78	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(viii).
Section 90	Fugitive Dust from Open Areas and Vacant Lots	12/17/02	71 FR 63250 (10/30/06)	Originally adopted on 6/22/00, and amended on 12/17/02. Submitted on 1/23/03. See 40 CFR 52.1490(c)(60)(i)(A)(*1*). Supersedes earlier version of rule approved at 69 FR 32273 (6/9/04).
Section 91	Fugitive Dust from Unpaved Roads, Unpaved Alleys and Unpaved Easement Roads.	11/20/01	69 FR 32273 (6/9/04) ...	Originally adopted on 6/22/00 and amended on 11/20/01. Submitted on 10/24/02. See 40 CFR 52.1490(c)(43)(i)(A)(*1*).

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Section 92	Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards.	12/17/02	71 FR 63250 (10/30/06)	Originally adopted on 6/22/00, and amended on 12/17/02. Submitted on 1/23/03. See 40 CFR 52.1490(c)(60)(i)(A)(*1*). Supersedes earlier version of rule approved at 69 FR 32273 (6/9/04).
Section 93	Fugitive Dust from Paved Roads & Street Sweeping Equipment.	3/4/03 (amended)	71 FR 63250 (10/30/06)	Originally adopted on 6/22/00, amendments adopted on 3/4/03 made effective 3/18/03. Submitted on 3/26/03. See 40 CFR 52.1490(c)(61)(i)(A)(*1*). Supersedes earlier version of rule approved at 69 FR 32273 (6/9/04).
Section 94	Permitting & Dust Control for Construction Activities.	3/18/03 (amended)	71 FR 63250 (10/30/06)	Originally adopted on 6/22/00, amendments adopted on 3/18/03 made effective 4/1/03. Submitted on 3/26/03. See 40 CFR 52.1490(c)(61)(i)(A)(*1*). Supersedes earlier version of rule approved at 69 FR 32273 (6/9/04).
Section 94 Handbook	Construction Activities Dust Control Handbook	4/1/03	71 FR 63250 (10/30/06)	Originally adopted on 6/22/00, and amended on 3/18/03. Submitted on 3/26/03. See 40 CFR 52.1490(c)(61)(i)(A)(*1*). Supersedes earlier version of rule approved at 69 FR 32273 (6/9/04).
Clark County Building Code, Section 3708.	Residential Wood Combustion Ordinance (Fireplace), No. 1249.	12/4/90	68 FR 52838 (9/8/03)	Adopted on 11/20/90, and submitted on 11/19/02. See 40 CFR 52.1490(c)(41)(i)(A)(*1*).

TABLE 4—EPA-APPROVED CITY OF LAS VEGAS REGULATIONS

City citation	Title/subject	City effective date	EPA approval date	Additional explanation
City of Las Vegas Building Code, Section 3708.	Residential Wood Combustion Ordinance (Fireplace), No. 3538.	11/21/90	68 FR 52838 (9/8/03)	Adopted on 11/21/90, and submitted on 11/19/02. See 40 CFR 52.1490(c)(41)(i)(A)(*2*).

TABLE 5—EPA-APPROVED CITY OF LAS VEGAS REGULATIONS

City citation	Title/subject	City effective date	EPA approval date	Additional explanation
City of North Las Vegas Building Code, Section 13.16.150.	Residential Wood Combustion Ordinance (Fireplace), No. 1020.	9/18/91	68 FR 52838 (9/8/03)	Adopted on 9/18/91, and submitted on 11/19/02. See 40 CFR 52.1490(c)(41)(i)(A)(*3*).

TABLE 6—EPA-APPROVED CITY OF HENDERSON REGULATIONS

City citation	Title/subject	City effective date	EPA approval date	Additional explanation
City of Henderson Building Code, Section 15.40.010.	Residential Wood Combustion Ordinance (Fireplace), No. 1697.	10/15/96	68 FR 52838 (9/8/03)	Adopted on 10/15/96, and submitted on 11/19/02. See 40 CFR 52.1490(c)(41)(i)(A)(*4*).

TABLE 7—EPA-APPROVED WASHOE COUNTY REGULATIONS

District citation	Title/subject	District effective date	EPA approval date	Additional explanation
	GENERAL DEFINITIONS			
010.000	Definitions	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.005	Air Contaminant	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.010	Air Pollution	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.011	Allowable emissions	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.014	Asphalt	5/23/79 (adopted)	46 FR 21758 (4/14/81).	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.015	Atmosphere	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.020	Board of Health	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.025	BTU—British Thermal Unit	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.028	Cold Cleaner	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.030	Combustion Contaminants	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.035	Combustible Refuse	2/1/72	38 FR 12702 (5/14/73).	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.040	Commercial Fuel Oil	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.045	Condensed Fumes	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.050	Control Equipment	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.055	Control Officer	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.057	Conveyorized Degreaser	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.059	Cut-back Asphalt	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.060	District Health Officer	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.065	Dusts	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.070	Emission	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.071	Freeboard height	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.072	Freeboard ratio	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.075	Fuel	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.080	Fuel Burning Equipment	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.085	Garbage	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.090	Gas	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.091	Gasoline	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.095	Health District	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.100	Hearing Board	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).

TABLE 7—EPA-APPROVED WASHOE COUNTY REGULATIONS—Continued

District citation	Title/subject	District effective date	EPA approval date	Additional explanation
010.105	Incinerator	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.106	Lowest Achievable Emission Rate.	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.107B	Major Emitting Facility Or Major Stationary Source (Nonattainment Areas).	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.108	Major Modification	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.110	Mist	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.116	Non Attainment Area	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.117	Non Attainment Pollutant	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.120	Nuisance	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.125	Odor	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.130	Opacity	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.135	Open Fire	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.136	Open Top Vapor Degreaser	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.140	Particulate Matter	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.145	Pathological Waste	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.117	Pellet Stove	2/23/06	72 FR 33397 (6/18/07)	Submitted on 5/5/06. See 40 CFR 52.1490(c)(63)(i)(A)(*1*).
010.148	Penetrating Prime Coat	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.149	Penetrating Seal Coat	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.150	Person	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.151	Potential to Emit	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.155	Process Weight	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.160	Process Weight Rate	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.165	Ringelmann Chart	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.166	Significant Ambient Impact	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.170	Smoke	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.175	Source	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.1751	Source Registration	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
010.180	Stack or Chimney	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.185	Standard Conditions	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
010.197	Volatile Organic Compound	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 4/24/79. See 40 CFR 52.1490(c)(16)(iii).
	GENERAL PROVISIONS			
020.005	Board of Health—Powers and Duties.	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.010	Injunctive Relief	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.015	Judicial Relief	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.025	Control Officer—Powers and Duties.	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).

TABLE 7—EPA-APPROVED WASHOE COUNTY REGULATIONS—Continued

District citation	Title/subject	District effective date	EPA approval date	Additional explanation
020.035	Violations of Regulations	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.040	Notice of Violation	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.045	Citation	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.050	Administrative Fines	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.055	Injunctive Relief	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.055	Confidential information	1/24/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
020.060	Interference with Performance of Duty.	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.070	Sampling and Testing	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.080	Circumvention	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.085	Upset, Breakdown or Scheduled Maintenance.	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.090	Registration of Sources	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
020.095	Severability	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
SOURCE REGISTRATION AND OPERATION				
030.000	Sources—General	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.005	[Authority to Construct must be issued before any building permit].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.010	[Limits on Issuance of Authorities to Construct].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.015	[Public notice requirement for major sources].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.025	Registration Application	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.030	[Limits on effect of acceptance of permit application or issuance of Authority to Construct].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.110	[modifications]	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.115(1), (5), and subsection (B).	[Additional requirements for major sources in general and specific additional requirements for major sources of nonattainment pollutants].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.120	[Violations and Stop Work Orders].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.1201	[Person served with Stop Work Order].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.205	[Registration Requirement]	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.210	[Issuance of Permits to Operate]	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.215	[Limits on Meaning of Issuance of Permit to Operate].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.245	[Permit to Operate is not transferable].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.250	[Permit to Operate is subject to suspension or revocation for violation].	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
030.300	Fee and Fee Schedule	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.305	Plan Review Fees	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.310	[Permit to Operate—Schedule of Fees].	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.3101	Fuel burning equipment	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).

TABLE 7—EPA-APPROVED WASHOE COUNTY REGULATIONS—Continued

District citation	Title/subject	District effective date	EPA approval date	Additional explanation
030.3102	Incinerators	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.3103	Storage tanks	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.3104	Processes	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.3105	Hazardous materials processes	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.3107	[Fee for transfer]	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
030.3108	[Cost of replacement]	5/23/79 (adopted)	46 FR 43141 (8/27/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(ix).
	PROHIBITED EMISSIONS			
040.005	Visible Air Contaminants	2/23/06	72 FR 33397 (6/18/07)	Submitted on 5/5/06. See 40 CFR 52.1490(c)(63)(i)(A)(*1*).
040.010	Particulate Matter	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.015	Specific Contaminants	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.020	Dust and Fumes	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.025	Exceptions	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.030	Dust Control	11/1/02	72 FR 25969 (5/8/07)	Adopted on 7/26/02. Submitted on 8/5/02. See 40 CFR 52.1490(c)(55)(i)(A)(2).
040.031	Street Sanding Operations	2/27/02	71 FR 14386 (3/22/06)	Adopted on 2/27/02. Submitted on 8/5/02. See 40 CFR 52.1490(c)(55)(i)(A)(1).
040.032	Street Sweeping Operations	2/27/02	71 FR 14386 (3/22/06)	Adopted on 2/27/02. Submitted on 8/5/02. See 40 CFR 52.1490(c)(55)(i)(A)(1).
040.035	Open Fires	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.040	Burning Permit Conditions	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.045	Refuse Disposal	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.050	Incinerator Emissions	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.051	Wood Stove/Fireplace Insert Emissions.	2/23/06	72 FR 33397 (6/18/07)	Submitted on 5/5/06. See 40 CFR 52.1490(c)(63)(i)(A)(*1*).
040.060	Sulfur Content of Fuel	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.065	Reduction of Animal Matter	2/1/72	38 FR 12702 (5/14/73)	Submitted on 6/12/72. See 40 CFR 52.1490(c)(2).
040.070	Storage of Petroleum Products	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
040.075	Gasoline Loading into Tank Trucks and Trailers.	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
040.080	Gasoline Unloading from Tank Trucks and Trailers into Storage Tanks.	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
040.085	Organic Solvents	1/24/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
040.090	Cut-Back Asphalts	5/23/79 (adopted)	46 FR 21758 (4/14/81)	Submitted on 7/24/79. See 40 CFR 52.1490(c)(16)(iii).
040.095	Oxygen content of motor vehicle fuel.	9/22/05	73 FR 38124 (7/3/08)	See 40 CFR 52.1490(c)(69)(i)(A)(*1*).
[Related to 040.095]	Washoe County District Board of Health Meeting, September 22, 2005, Public Hearing—Amendments—Washoe County District Board of Health Regulations Governing Air Quality Management; to Wit: Rule 040.095 (Oxygen Content of Motor Vehicle Fuel).	9/22/05	73 FR 38124 (7/3/08)	See 52.1490(c)(69)(i)(A)(*1)(i*).

TABLE 7—EPA-APPROVED WASHOE COUNTY REGULATIONS—Continued

District citation	Title/subject	District effective date	EPA approval date	Additional explanation
EMERGENCY EPISODE PLAN				
050.001	Emergency Episode Plan	3/23/06	72 FR 33397 (6/18/07)	Submitted on 5/5/06. See 40 CFR 52.1490(c)(63)(i)(A)(*1*).
060.010	Emergency Authority to Act	2/1/72	38 FR 12702 (5/14/73)	Submitted on June 12, 1972. See 40 CFR 52.1490(c)(2).
060.015	Sampling Stations and Air Sampling.	2/1/72	38 FR 12702 (5/14/73)	Submitted on June 12, 1972. See 40 CFR 52.1490(c)(2).
060.020	Reports	2/1/72	38 FR 12702 (5/14/73)	Submitted on June 12, 1972. See 40 CFR 52.1490(c)(2).
060.025	Continuing Program of Voluntary Cooperation.	2/1/72	38 FR 12702 (5/14/73)	Submitted on June 12, 1972. See 40 CFR 52.1490(c)(2).

(d) EPA-approved State source-specific permits.

[Reserved.]

(e) EPA-approved Nevada nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
AIR QUALITY IMPLEMENTATION PLAN FOR THE STATE OF NEVADA[1]				
Section 1—Legal authority	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b). Statutes approved into the SIP are listed at the end of this table.
Legal opinions concerning the plan.	State-wide	11/17/72	38 FR 12702 (5/14/73).	See 40 CFR 52.1490(c)(4).
Section 2—Control regulations	State-wide, Clark County and Washoe County air districts, and certain city and county jurisdictions.	(*)	Not applicable	See paragraph (c) of 40 CFR 52.1470, above.
Section 3—Air quality data summary (excluding subsection 3.2).	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b). An amended subsection 3.2 was submitted on 12/10/76 and approved at 43 FR 26932 (8/21/78).
Subsection 3.2 (SO_2 Data)	State-wide	12/10/76	43 FR 26932 (8/21/78)	Superseded subsection 3.2 from the original SIP. See 40 CFR 52.1490(c)(12).
Section 4—Emissions summary (excluding subsection 4.2).	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b). An amended subsection 4.2 was submitted on 12/10/76 and approved at 43 FR 26932 (8/21/78).
Subsection 4.2 (Exceptions)	State-wide	12/10/76	43 FR 26932 (8/21/78)	Superseded subsection 4.2 from the original SIP. See 40 CFR 52.1490(c)(12).
Section 5—Control strategy (excluding subsection 5.1 and table 5.1).	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b). Errata sheet correcting page 5–21 was submitted by Nevada on 4/26/72 and approved with the original SIP on 1/28/72. See 40 CFR 52.1490(c)(1). Subsection 5.1 and table 5.1 was superseded by amended provisions at 43 FR 26932 (8/21/78).
Subsection 5.1 (Approach)	State-wide	12/10/76	43 FR 26932 (8/21/78)	Superseded subsection 5.1 from the original SIP. See 40 CFR 52.1490(c)(12).
Table 5.1 (Classification of regions).	State-wide	12/10/76	43 FR 26932 (8/21/78)	Superseded table 5.1 from the original SIP. See 40 CFR 52.1490(c)(12).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Table 5.2 (Set 1 Pollutants)	Clark County	12/10/76	43 FR 26932 (8/21/78)	Specifies SO_2 control strategy analysis for Clark County. See 40 CFR 52.1490(c)(12).
Nevada State Implementation Plan for Interstate Transport to Satisfy the Requirements of Clean Air Act 110(a)(2)(D)(i) for the 8-hour Ozone and $PM_{2.5}$ NAAQS Promulgated in July 1997 (January 31, 2007).	State-wide	2/5/07	72 FR 41629 (7/31/07)	See 40 CFR 52.1490(c)(64)(i)(A)(*1*).
Mason Valley #108 (Yerington) and Fernley Area #76 Air Quality Implementation Plan.	Mason Valley and Fernley Area.	12/29/78	46 FR 21758 (4/14/81)	TSP nonattainment plan. See 40 CFR 52.1490(c)(14)(iii). TSP plan was approved with conditions, but conditions were revoked at 47 FR 15790 (4/13/82).
Letter from Michael L. Eckstein, P.E., Lyon County Engineer, 2/27/79.	Yerington and Fernley	7/24/79	46 FR 21758 (4/14/81)	Relates to paving schedule to reduce TSP emissions. See 40 CFR 52.1490(c)(16)(iv).
Lander County Air Quality Improvement Plan.	Lander County	12/29/78	46 FR 21758 (4/14/81)	TSP nonattainment plan. See 40 CFR 52.1490(c)(14)(iii). TSP plan was approved with conditions, but conditions were revoked at 47 FR 15790 (4/13/82).
Resolution, County of Lander, May 3, 1979.	Lander County	7/24/79	46 FR 21758 (4/14/81)	See 40 CFR 52.1490(c)(16)(iv).
Carson Desert (#101 (Fallon) Air Quality Implementation Plan.	Carson Desert	12/29/78	46 FR 21758 (4/14/81)	TSP nonattainment plan. See 40 CFR 52.1490(c)(14)(iii). TSP plan was approved with conditions, but conditions were revoked at 47 FR 15790 (4/13/82).
Letter from Ben T. Bartlett, P.E., City Engineer, City of Fallon, 12/20/78.	City of Fallon	7/24/79	46 FR 21758 (4/14/81)	Relates to paving schedule to reduce TSP emissions. See 40 CFR 52.1490(c)(16)(iv).
Winnemucca Segment (#70) Air Quality Implementation Plan.	Winnemucca Segment	12/29/78	46 FR 21758 (4/14/81)	TSP nonattainment plan. See 40 CFR 52.1490(c)(14)(iii). TSP plan was approved with conditions, but conditions were revoked at 47 FR 15790 (4/13/82).
Letter from Leslie F. Harmon, Councilman, City of Winnemucca, 11/11/79.	City of Winnemucca	7/24/79	46 FR 21758 (4/14/81)	Relates to paving schedule to reduce TSP emissions. See 40 CFR 52.1490(c)(16)(iv).
Redesignation Request and Maintenance Plan for the National Sulfur Dioxide Standard—Central Steptoe Valley.	Central Steptoe Valley, White Pine County.	2/14/95	67 FR 17939 (4/12/02)	Sulfur dioxide redesignation request and maintenance plan. See 40 CFR 52.1490(c)(39)(i)(A).
Supplement to Maintenance Plan for the National Sulfur Dioxide Standard—Central Steptoe Valley.	Central Steptoe Valley, White Pine County.	2/27/02	67 FR 17939 (4/12/02)	Supplement consists of a letter from Allen Biaggi, Administrator, NDEP, to Wayne Nastri, EPA Region IX Regional Administrator, dated 2/27/02. See 40 CFR 52.1490(c)(40)(i)(A).
Las Vegas Valley Air Quality Implementation Plan, 12/5/78.	Las Vegas Valley, Clark County.	12/29/78	46 FR 21758 (4/14/81)	Carbon monoxide, photochemical oxidant, and TSP nonattainment plan. See 40 CFR 52.1490(c)(14)(iii). The plan was approved with conditions, but conditions were revoked at 47 FR 15790 (4/13/82).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Two memoranda of understanding between Clark County, the Health District, and the Transportation Policy Committee.	Las Vegas Valley, Clark County.	7/24/79	46 FR 21758 (4/14/81)	Amendments to the Las Vegas Valley Air Quality Implementation Plan, 12/5/78. See 40 CFR 52.1490(c)(16)(v).
Air Quality Implementation Plan, Las Vegas Valley, Clark County, Nevada, Revised 11/18/80 (excluding Clark County Air Pollution Control Regulations).	Las Vegas Valley, Clark County.	4/4/81	47 FR 15790 (4/13/82)	Updates Las Vegas Valley Air Quality Implementation Plan, 12/5/78, for carbon monoxide, ozone and TSP to respond to conditions placed on approval. See 40 CFR 52.1490(c)(23)(i). Clark County air pollution control regulations were included as appendix C to the plan but were not approved as part of the plan.
Air Quality Implementation Plan, Las Vegas Valley, Clark County, Nevada, Update, 6/1/82.	Las Vegas Valley, Clark County.	6/23/82	49 FR 44208 (11/5/84)	Submitted as required in response to EPA's approval of request for extension of CO attainment date to 1987. See 40 CFR 52.1490(c)(32).
Air Quality Implementation Plan, Las Vegas Valley, Clark County, Nevada, Post 1982 Update, July 1984.	Las Vegas Valley, Clark County.	1/11/85	51 FR 29923 (8/21/86)	Submitted as required in response to EPA's approval of request for extension of ozone attainment date to 1987. In addition to the plan itself, the approval includes an emissions inventory for 1995, transmitted by letter dated 3/14/86. See 40 CFR 52.1490(c)(33)(i)(A).
Emissions Inventory for 1995 ..	Las Vegas Valley, Clark County.	3/14/86	51 FR 29923 (8/21/86)	Supplements the Air Quality Implementation Plan, Las Vegas Valley, Clark County, Nevada, Post 1982 Update, 7/84. See 40 CFR 52.1490(c)(33)(ii)(A).
PM–10 State Implementation Plan for Clark County, June 2001.	Las Vegas Valley, Clark County.	7/23/01	69 FR 32273 (6/9/04)	Adopted 6/19/01. PM–10 nonattainment plan. Approval covers chapter 3, chapter 4 (excluding pages 4–125 and 4–126), chapters 5 through 7, appendices A through E, appendix J, and appendices L through N. All rules and regulations approved in appendix G have been superseded by subsequent EPA approvals of amended regulations. See 40 CFR 52.1490(c)(42)(i)(A)(*1*).
Pages 4–125 and 4–126 and appendix R (of the PM–10 State Implementation Plan for Clark County).	Las Vegas Valley, Clark County.	11/19/02	69 FR 32273 (6/9/04)	Replacement pages and an additional appendix (i.e., Appendix R—Documentation on Residential Wood Combustion Control Measures") to the PM–10 State Implementation Plan for Clark County. See 40 CFR 52.1490(c)(44)(i)(A)(*1*).
State of Nevada State Implementation Plan for an Enhanced Program for the Inspection and Maintenance of Motor Vehicles for Las Vegas Valley and Boulder City, Nevada, revised March 1996.	Portions of Clark County	3/20/96	69 FR 56351 (9/21/04)	I/M SIP. Approval includes the cover page through page 15, appendix 1 (only the Nevada attorney general's opinion and memorandum dated 11/15/93 and 6/29/94, respectively), and appendices 2 and 9. See 40 CFR 52.1490(c)(46)(i)(A)(*1*).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
NV2000 Analyzer Electronic Data Transmission Equipment Specifications (June 15, 2000).	Parts of Clark County	1/30/02	69 FR 56351 (9/21/04)	Included in approval of I/M program for Las Vegas Valley and Boulder City. See 40 CFR 52.1490(c)(48)(ii)(A)(*1*).
Contract between Nevada Department of Motor Vehicles and MD LaserTech for on-road testing services, dated January 15, 2002.	Parts of Clark County	6/4/02	69 FR 56351 (9/21/04)	Included in approval of I/M program for Las Vegas Valley and Boulder City. See 40 CFR 52.1490(c)(49)(ii)(A)(*1*).
Carbon Monoxide State Implementation Plan, Las Vegas Valley Nonattainment Area, Clark County, Nevada, August 2000.	Las Vegas Valley, Clark County.	8/9/00	69 FR 56351 (9/21/04)	CO nonattainment plan. Adopted on 8/1/00. Approval includes the following sections within which certain exceptions are noted but excluding all sections not specifically cited: chapters 1 through 8 (with the exception of chapter 7, subsection 7.2.2, ''Contingency Measures''); appendix A, ''Emissions Inventory'', sections 1 through 7, and section 8-''Annexes'' (with the exception of appendix E, ''Quality Assurance/Quality Control''); appendix B, ''Transportation Documentation'', section 1; appendix D, ''Regulations, Policies and Public Participation Documentation'', section 1-''Cleaner Burning Gasoline (CBG) Regulations and Supporting Documentation'' (with the exception of District Board of Health of Clark County Air Pollution Control Regulations section 54 as adopted on April 22, 1999), section 2, section 3, section 4-''Nevada Administrative Code, Chapter 445B: Technician Training and Licensing'' (with the exception of NAC 445B.485–445B.487, 445B.489–445B.493, and 445B.495–445B.498), and sections 5 through 9; and appendix E, ''Supplemental Technical Support Documentation'', sections 1 through 4, and 7. See 40 CFR 52.1490(c)(47)(i)(A)(*1*).
Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada, October 2005.	Las Vegas Valley, Clark County.	2/14/06	71 FR 44587 (8/7/06)	Update to 2000 CO nonattainment plan. Adopted by Clark County on 10/4/05. Approval did not include section 7.3 (page 7–2), ''Mobile Source Emissions Budget''). See 40 CFR 52.1490(c)(57)(i)(A)(*1*).
Section 7.3 (page 7–2), ''Mobile Source Emissions Budget'') of the Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada.	Las Vegas Valley, Clark County.	5/12/06	71 FR 44587 (8/7/06)	Replacement section for 2005 CO Plan. Adopted by Clark County on 5/2/06. See 40 CFR 52.1490(c)(58)(i)(A)(*1*).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Carbon Monoxide Redesignation Request and Maintenance Plan, Las Vegas Valley Nonattainment Area, Clark County, Nevada (September 2008), excluding the appendices.	Las Vegas Valley, Clark County.	9/18/08	75 FR 59090 (9/27/10)	See 40 CFR 52.1490(c)(73)(ii)(B).
Resolution of the Clark County Board of Commissioners Adopting the Clark County Carbon Monoxide Redesignation Request and Maintenance Plan, adopted by the Clark County Board of Commissioners on September 2, 2008.	Las Vegas Valley, Clark County.	9/18/08	75 FR 59090 (9/27/10)	See 40 CFR 52.1490(c)(73)(ii)(A).
Letter from Anthony Lesperance, Director, Nevada Department of Agriculture, to Lewis Wallenmeyer, Director, Clark County Department of Air Quality and Environmental Management, dated June 22, 2010.	Las Vegas Valley, Clark County.	8/30/10	75 FR 59090 (9/27/10)	See 40 CFR 52.1490(c)(75). Letter sets forth the Nevada Department of Agriculture's commitment to seek reinstatement of the Low RVP wintertime gasoline requirement in Clark County if necessary under the Las Vegas Valley Carbon Monoxide Maintenance Plan to address future carbon monoxide violations.
Clark County Transportation Conformity Plan (January 2008).	Portions of Clark County	4/1/08	73 FR 66182 (11/7/08)	40 CFR 52.1490(c)(72)(i)(A).
Correspondence dated March 6, 2007 from the Nevada Department of Motor Vehicles to the Nevada Division of Environmental Protection.	Portions of Clark County and Washoe County.	5/11/07	73 FR 38124 (7/3/08)	The letter describes an upgrade to the NV2000 emission analyzer to make emissions testing possible on motor vehicles containing a certified on-board diagnostic system which uses controller area network communication. See 40 CFR 52.1490(c)(71)(ii)(A)(*1*).
Truckee Meadows Air Quality Implementation Plan, 12/6/78.	Truckee Meadows, Washoe County.	12/29/78	46 FR 21758 (4/14/81)	Carbon monoxide, photochemical oxidant, and TSP nonattainment plan. See 40 CFR 52.1490(c)(14)(iii). The plan was approved with conditions, but conditions were revoked at 47 FR 15790 (4/13/82).
Request for Extension of the CO Attainment Date for the Truckee Meadows CO Nonattainment Area.	Truckee Meadows, Washoe County.	8/19/80	46 FR 45605 (9/14/81)	See 40 CFR 52.1490(c)(20).
Resolution of the Washoe Council of Governments adopted 8/28/81 and Endorsement of the State Environmental Commission dated 10/15/81.	Truckee Meadows, Washoe County.	11/17/81	47 FR 15790 (4/13/82)	Commitments satisfy a condition placed on approval of the 1978 Truckee Meadows Air Quality Implementation Plan. See 40 CFR 52.1490(c)(24)(ii).
Truckee Meadows Air Quality Implementation Plan (AQIP), 1982 Update (Revised).	Truckee Meadows, Washoe County.	9/14/83	49 FR 31683 (8/8/84)	CO nonattainment plan. Attainment and RFP demonstrations and the Legally Enforceable Measures portions of the plan were not included in the approval. See 40 CFR 52.1490(c)(26)(ii).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Maintenance Plan for the Washoe County 8-Hour Ozone Attainment Area (April 2007), excluding appendices.	Washoe County	5/30/07	73 FR 3389 (1/18/08)	CAA section 110(a)(1) maintenance plan. See 40 CFR 52.1490(c)(65)(i)(A)(*1*).
Redesignation Request and Maintenance Plan for the Truckee Meadows Carbon Monoxide Non-Attainment Area (September 2005), excluding appendices B, C, and D.	Truckee Meadows, Washoe County.	11/4/05	73 FR 38124 (7/3/08)	See 40 CFR 52.1490(c)(69)(i)(A)(*2*).
Basic I/M Performance Standard.	Portions of Washoe County	11/2/06	73 FR 38124 (7/3/08)	See 40 CFR 52.1490(c)(70)(i)(A)(*1*) and (c)(70)(ii)(A)(*1*).
Washoe County District Board of Health Meeting, September 28, 2006, Public Hearing-State Implementation Plan (SIP).	Portions of Washoe County	11/2/06	73 FR 38124 (7/3/08)	See 40 CFR 52.1490(c)(70)(i)(A)(*1)(i*). ''Basic Program-Inspection and Maintenance (I/M) of Motor Vehicles—Truckee Meadows Planning Area, Nevada;'' to Wit: Basic Inspection and Maintenance (I/M) Performance Standard.
State Implementation Plan for a Basic Program for the Inspection and Maintenance of Motor Vehicles for the Truckee Meadows Planning Area, Nevada (June 1994), including the cover page through page 9, appendix 1, appendix 2 (only the certificate of compliance and Nevada attorney general's opinion), and appendices 3, 6, 8, and 10.	Portions of Washoe County	6/3/94	73 FR 38124 (7/3/08)	See 40 CFR 52.1490(c)(68).
Lake Tahoe Basin Nonattainment Area Plan.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	7/24/79	47 FR 27065 (6/23/82)	Carbon monoxide nonattainment plan. Also, includes elements related to photochemical oxidant. See 40 CFR 52.1490(c)(16)(vii). The plan was approved with conditions, but conditions were revoked at 49 FR 6897 (2/24/84).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Amendments to the Lake Tahoe Basin Nonattainment Area Plan.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	12/9/82	49 FR 6897 (2/24/84)	Submitted in response to conditions placed on approval of 1979 Lake Tahoe Plan. Amendments include: (i) Emission reduction estimates and/or changes in vehicular activity for the adopted control measures; (ii) A modeling analysis indicating 1982 attainment; (iii) Documentation of the modeling analysis including air quality, traffic and meteorological data; (iv) Evidence of implementation and/or future commitments for the adopted control measures; and (v) Appendix of previous reports, measured data and other official correspondence including: (A) Resource commitments from the responsible agencies for implementing the RFP, (B) 1979 and 1980 Annual Reports for the Lake Tahoe Air Basin, and (C) 1981 Nevada Air Quality Report. See 40 CFR 52.1490(c)(27).
Amendments to the Lake Tahoe Basin Nonattainment Area Plan.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	12/16/82	49 FR 6897 (2/24/84)	Submitted in response to conditions placed on approval of 1979 Lake Tahoe Plan. Amendments include: (i) Additional evidence of commitment to the control evidence by the responsible state and/or local agencies; and (ii) Additional supporting documentation for the 1982 attainment modeling analysis which included revised technical data on measured and modeled CO traffic volumes, and a revised narrative on the calibration constant and the impacts to the model. See 40 CFR 52.1490(c)(28).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Amendments to the Lake Tahoe Basin Nonattainment Area Plan.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	1/28/83	49 FR 6897 (2/24/84)	Submitted in response to conditions placed on approval of 1979 Lake Tahoe Plan. Amendments include: (i) Response to EPA's preliminary evaluation, specifying documentation for calibrating the model, the mobile source emission factors, and additional traffic data; (ii) Conversion factors for the model; and (iii) A revised 1982 attainment modeling analysis and supporting documentation including: (A) 1979, 1980–82 traffic data for the Stateline Area, (Appendix A); (B) Stateline Cold Start/Hot Start Analysis, (Appendix B); (C) Portions of the Highway 50 Corridor Study, June 1979 (Appendix C); (D) Reference from Transportation and Traffic Engineering Handbook, (1979), (Appendix D); and (E) Revised Caline 3 and Mobile 2 modeling analysis using both 27% and 50% cold start factors, (Appendix E). See 40 CFR 52.1490(c)(29).
Amendments to the Lake Tahoe Basin Nonattainment Area Plan.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	5/5/83	49 FR 6897 (2/24/84)	Submitted in response to conditions placed on approval of 1979 Lake Tahoe Plan. Amendments include: (i) ''Stateline, Nevada, 1983 Carbon Monoxide Study''—a traffic, ambient air monitoring and predictive modeling report; and (ii) A revised analysis of the Caline 3 model verifying 1982 attainment, based on data collected in February and March 1983. See 40 CFR 52.1490(c)(30).
Carbon Monoxide Redesignation Request and Limited Maintenance Plan for the Nevada Side of the Lake Tahoe Basin, October 2003.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	10/27/03	68 FR 69611 (12/15/03)	Adopted on 9/18/03. See 40 CFR 52.1490(c)(45)(i)(A)(*1*). Approval includes: *(1)* Attainment year (2001) emissions inventory, monitoring network and verification of continued attainment, and contingency plan, including commitments to follow maintenance plan contingency procedures by the Nevada Division of Environmental Protection, the Tahoe Metropolitan Planning Organization, the Nevada Department of Transportation, and the Washoe County District Health Department.

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Transmittal Letter for the Carbon Monoxide Redesignation Request and Limited Maintenance Plan for the Nevada Side of the Lake Tahoe Basin, October 2003.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	10/27/03	68 FR 69611 (12/15/03)	See 40 CFR 52.1490(c)(45)(i)(B). Includes a State commitment to track CO concentrations and to adopt, submit as a SIP revision, and implement expeditiously any and all measures to achieve the level of CO emissions reductions needed to maintain the CO NAAQS in the event that an exceedance of the CO NAAQS is monitored, and to work with the involved jurisdictions to ensure that sufficient measures are adopted and implemented in a timely fashion to prevent a violation.
Addendum to the October 27, 2003 letter of transmittal of the redesignation request and maintenance plan.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	10/27/03	68 FR 69611 (12/15/03)	See 40 CFR 52.1490(c)(45)(i)(C). Includes emissions projections for on-road motor vehicles through 2016.
Section 6—Emergency episode plan (excluding subsections 6.1.4, 6.5.2.2; tables 6.1, 6.2 and 6.3; Air Pollution Episode Notice and; Episode Communication Checklist).	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b). Subsections 6.1.4, 6.5.2.2; tables 6.1, 6.2 and 6.3; Air Pollution Episode Notice and; Episode Communication Checklist from the original SIP were superseded by amended provisions approved at 45 FR 46384 (7/10/80).
Subsections 6.1.4 (Emergency Episode Criteria) and 6.5.2.2 (Episode Actions); table 6.1 (Episode stage definitions), table 6.2 (Stage 1 episode, Stage 2 episode, and Stage 3 episode), and table 6.3 (Source list); Air Pollution Episode Notice and; Episode Communication Checklist.	State-wide	12/29/78	45 FR 46384 (7/10/80)	Amends provisions from original SIP. See 40 CFR 52.1490(c)(14)(i).
Section 7—Compliance schedule.	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b).
Section 8—Source surveillance	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b).
Section 9—Review of new sources and modifications.	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b).
Section 10—State of Nevada Ambient Air Quality Monitoring and Surveillance.	State-wide	6/24/80	46 FR 40512 (8/10/81)	See 40 CFR 52.1490(c)(19)(i).
Section 11—Intergovernmental relations.	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b).
Section 12—Resources	State-wide	1/28/72	37 FR 10842 (5/31/72)	See 40 CFR 52.1490(b).
State Implementation Plan Revision for Lead.	State-wide	11/17/81	48 FR 6105 (2/10/83)	Lead (Pb) SIP. See 40 CFR 52.1490(c)(24)(v).
State Implementation Plan Revision for Ambient Lead in Las Vegas Valley, Clark County, Nevada, 2/11/80.	Las Vegas Valley, Clark County.	6/24/80	47 FR 28374 (6/30/82)	Lead (Pb) SIP. See 40 CFR 52.1490(c)(19)(iii).
Adopted Lead Implementation Plan for the Truckee Meadows Basin, 4/26/84.	Truckee Meadows, Washoe County.	5/30/84	49 FR 26736 (6/29/84)	Lead (Pb) SIP. See 40 CFR 52.1490(c)(31)(i).
Small Business Stationary Source Technical and Environmental Compliance Assistance Program.	State-wide	6/28/94	61 FR 4901 (2/9/96)	See 40 CFR 52.1490(c)(34)(i)(A).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Small Business Stationary Source Technical and Environmental Compliance Assistance Program.	State-wide	7/5/95	61 FR 4901 (2/9/96)	See 40 CFR 52.1490(c)(35)(i)(A).
Nevada Revised Statutes, Title 0, Preliminary Chapter—General Provisions				
0.039	''Person'' defined	3/24/06	71 FR 51766 (08/31/06)	See 40 CFR 52.1490(c)(59)(i)(A)(*1*).
Nevada Revised Statutes, Title 32, Revenue and Taxation, Chapter 365, Taxes on Certain Fuels for Motor Vehicles and Aircraft				
365.060	''Motor vehicle fuel'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 32, Revenue and Taxation, Chapter 366, Tax on Special Fuel				
366.060	''Special fuel'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: General Provisions				
445B.105	Definitions	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.110	''Air contaminant'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.115	''Air pollution'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.120	''Commission'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.125	''Department'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.130	''Director'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.135	''Federal Act'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.140	''Hazardous air pollutant'' defined.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.145	''Operating permit'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.150	''Person'' defined	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.155	''Source'' and ''indirect source'' defined.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: State Environmental Commission				
445B.200	Creation and composition; chairman; quorum; compensation of members and employees; disqualification; technical support.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.205	Department designated as State Air Pollution Control Agency.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.210	Powers of commission	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
445B.220	Additional powers of commission.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.225	Power of commission to require testing of sources.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.230	Powers and duties of department.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.235	Additional powers of department.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.240	Power of representatives of department to enter and inspect premises.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.245	Power of department to perform or require test of emissions from stacks.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: Local Hearing Board				
445B.275	Creation; members; terms	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.280	Attendance of witnesses at hearing; contempt; compensation.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Chapter 445B, Air Pollution: Provisions for Enforcement				
445B.300	Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of commission or department to act.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.310	Limitations on enforcement of federal and state regulations concerning indirect sources.	6/26/07	74 FR 15219 (4/3/09)	Nevada Revised Statutes (2003). See 40 CFR 52.1470(c)(66)(i)(A)(*4*).
445B.320	Approval of plans and specifications required before construction or alteration of structure.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.340	Appeals to commission: notice of appeal.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.350	Appeals to commission: hearings.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.360	Appeals to commission: appealable matters; action by commission; regulations.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: Violations				
445B.450	Notice and order by director; hearing; alternative procedures.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.460	Injunctive relief	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: Program for Control of Air Pollution				
445B.500	Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.510	Commission may require program for designated area.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.520	Commission may establish or supersede county program.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.530	Commission may assume jurisdiction over specific classes of air contaminants.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.540	Restoration of superseded local program; continuation of existing local program.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: Miscellaneous Provisions				
445B.560	Plan or procedure for emergency.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.570	Confidentiality and use of information obtained by Department; penalty.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.580	Officer of Department may inspect or search premises; search warrant.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.595	Governmental sources of air contaminants to comply with state and local provisions regarding air pollution; permit to set fire for training purposes; planning and zoning agencies to consider effects on quality of air.	1/12/06	71 FR 51766 (8/31/06)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*4*).
445B.600	Private rights and remedies not affected.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
445B.610	Provisions for transition in administration.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Air Pollution: Penalties				
445B.640	Levy and disposition of administrative fines; additional remedies available; penalty.	1/12/06	72 FR 11 (01/03/07)	Nevada Revised Statutes (2003). See 40 CFR 52.1490(c)(56)(i)(A)(*8*).
Nevada Revised Statutes, Title 40, Public Health and Safety, Chapter 445B, Air Pollution: Control of Emissions from Engines				
445B.700	Definitions	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.705	''Approved inspector'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
445B.710	''Authorized inspection station'' defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.715	''Authorized maintenance station'' defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.720	''Authorized station'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.725	''Commission'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.730	''Evidence of compliance'' defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.735	''Fleet station'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.737	''Heavy-duty motor vehicle'' defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.740	''Light-duty motor vehicle'' defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.745	''Motor vehicle'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.747	''Motor vehicle fuel'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.750	''Passenger car'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.755	''Pollution control device'' defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.757	''Special fuel'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.758	''Used motor vehicle'' defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.759	Inapplicability to military tactical vehicles.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.760	Authority of Commission to prescribe standards for emissions from mobile internal combustion engines; trimobiles; standards pertaining to motor vehicles to be approved by Department of Motor Vehicles.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.765	Information concerning program for control of emissions from motor vehicles: Collection, interpretation and correlation; public inspection.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.770	Regulations of Commission: Control of emissions from motor vehicles; program for inspection and testing of motor vehicles.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.775	Regulations of Commission: Requirements for licensing of stations by Department of Motor Vehicles.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
445B.780	Program for regulation of emissions from heavy-duty motor vehicles; equipment used to measure emissions; waiver from requirements of program.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.785	Regulations of Department of Motor Vehicles: Licensing of stations; performance of inspection and issuance of evidence of compliance; diagnostic equipment; fee, bond or insurance; informational pamphlet; distribution.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.790	Regulations concerning inspection of stations; grounds for denial, suspension or revocation of license of inspector or station.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.795	Compulsory program for control of emissions: Limitations.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.798	Authority of Department of Motor Vehicles, in larger counties, to conduct test of emissions from motor vehicle being operated on highway.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.800	Evidence of compliance: Requirements for registration, sale or long-term lease of used vehicles in certain counties.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.805	Evidence of compliance: Exemptions from requirements.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.810	State Department of Conservation and Natural Resources to provide assistance.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.815	Evidence of compliance: Duty of employees and agents of Department of Motor Vehicles; submission by owner or lessee of fleet.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.820	Installation and inspection of pollution control device.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.825	Exemption of certain classes of motor vehicles; waiver from provisions of NRS 445B.770 to 445B.815, inclusive.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.830	Fees to be paid to Department of Motor Vehicles; Pollution Control Account; expenditure of money in Account; quarterly distributions to local governments; annual reports by local governments; grants; creation and duties of advisory committee; submission and approval of proposed grants.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.832	Surcharge for electronic transmission of information: Authority to impose; inclusion as separate entry on form certifying emission control compliance; definition.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
445B.834	Additional fee for form certifying emission control compliance: Retention of portion of fee by station performing inspection; definition.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.835	Administrative fine; hearing; additional remedies to compel compliance.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.840	Unlawful acts	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
445B.845	Criminal penalty; enforcement of provisions by peace officer; mitigation of offense.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 481, Administration of Laws Relating to Motor Vehicles: Department of Motor Vehicles				
481.019	Creation; powers and duties ...	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.023	Administration of laws by Department; exceptions.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.027	General functions of Department of Motor Vehicles and Department of Transportation respecting state highways.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.031	Office of Director of Department created.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.035	Director of Department: Appointment; classification; other employment prohibited; employment of deputies and staff.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.047	Appointment of personnel	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.0473	Divisions of Department	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.0475	Duties of Administrative Services Division.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.048	Division of Compliance Enforcement: Appointment and duties of investigators.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.0481	Section for Control of Emissions From Vehicles and Enforcement of Matters Related to Use of Special Fuel: Creation; appointment and duties of investigators, officers and technicians.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.051	Powers and duties of Director: Generally.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.0515	Powers and duties of Director: References to names of persons in documents and records.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.052	Powers and duties of Director: Adoption of definition of 'seasonal resident' by regulation.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
481.0535	Powers and duties of Director: Expenditure of appropriations to assist certain entities to purchase and obtain evidence; receipt and safekeeping of money.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.055	Department to keep main office in Carson City; maintenance of branch offices.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.057	Offices of Department: Extended hours of operation.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.063	Collection and deposit of fees for publications of Department and private use of files and records of Department; limitations on release and use of files and records; regulations.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.065	Acceptance of donations for programs for traffic safety.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.079	Money collected to be deposited in Motor Vehicle Fund; exception; dishonored payments; adjustment of deposits.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.081	Arrearage in tax, fee or assessment administered by Department: Department authorized to file certificate; certificate as lien; extension of lien.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.082	Arrearage in tax, fee or assessment administered by Department: Release or subordination of lien; certificate issued by Department as conclusive evidence.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.083	Money for administration of chapter; claims.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
481.087	Administrative expenses deemed cost of administration of operation of motor vehicles on public highways.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 482, Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases				
482.029	Electric personal assistive mobility device defined.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 482, Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases—Administration				
482.155	Enforcement of provisions of chapter by Department, its officers and peace officers.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.160	Administrative regulations; branch offices; appointment of agents and designation of county assessor as agent; compensation of certain agents.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
482.162	Department to adopt regulations setting forth criteria for determination of whether person is farmer or rancher; presentation of evidence to Department.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.165	Director to provide forms	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.170	Records of Department concerning registration and licensing.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.171	List of registered owners to be provided for selection of jury; reimbursement of Department.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.173	Schedule for retention and disposition of certain records of Department.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.175	Validity of registration: Powers and duties of Department and registered dealers.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.180	Motor Vehicle Fund: Creation: deposits; interest and income; dishonored payments; distribution of money collected for basic governmental services tax; transfers.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.1805	Revolving Account for Issuance of Special License Plates: Creation; deposit of certain fees; use of money in Account; transfer of excess balance to State Highway Fund.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.181	Governmental services taxes: Certification of amount collected each month; distribution.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.183	Motor Vehicle Revolving Account: Creation; use; deposits.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.186	Certain odometers deemed to register mileage reflected on odometer plus 100,000 miles.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.187	Department authorized to enter into written agreements for periodic payment of delinquent taxes or fees; regulations.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.188	Waiver of penalty or interest for failure timely to file return or pay tax, penalty or fee in certain circumstances.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 482, Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases—Original and Renewal of Registration				
482.205	Registration required for certain vehicles.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.206	Periods of registration for motor vehicles; exceptions.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.208	Registration of leased vehicles by long-term lessor or long-term lessee.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
482.210	Exemptions from registration ..	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.215	Application for registration	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.216	Department may authorize new vehicle dealer to accept applications for registration and transfer of registration of new motor vehicles and to issue certificates of registration; duties of dealer; prohibited acts; regulations.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.220	Application for specially constructed, reconstructed, rebuilt or foreign vehicle; certificate of inspection; charge for inspection.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.225	Collection of sales or use tax upon application for registration of certain vehicles purchased outside this State; payment of all applicable taxes and fees required for registration; refund of tax erroneously or illegally collected.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.230	Grounds requiring refusal of registration.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.235	Registration indexes and records; assignment of registration number by registered dealer.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.240	Issuance of certificates of registration and title by Department or registered dealer; period of validity of certificate.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.245	Contents of certificates of registration and title.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.255	Placement of certificate of registration; surrender upon demand of peace officer, justice of the peace or deputy of Department; limitation on conviction.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.260	Duties of Department of Motor Vehicles and its agents relative to registration of vehicle; issuance of certificate of title; fees and taxes.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.265	License plates issued upon registration; stickers, tabs or other devices issued upon renewal of registration; return of plates; fee for and limitations on issuance of special license plates.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
482.266	Manufacture of license plates substantially similar to license plates issued before January 1, 1982: Written request; fee; delivery; duties of Department; retention of old plates authorized if requested plates contain same letters and numbers.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.267	License plates: Production at facility of Department of Corrections.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.268	License plates: Additional fee for issuance; deposit of fee.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.270	License plates: General specifications; redesign; configuration of special license plates designed, prepared and issued pursuant to process of direct application and petition.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.2703	License plates: Samples; form; fee; penalty.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.2705	License plates: Passenger cars and trucks.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.271	License plates: Decals; fees	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.2715	License plates: Registrant entitled to maintain code if continuously renewed; exceptions; issuance of replacement plates with same code after expiration of registration; fee.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.2717	License plates to be issued to automobile wreckers and operators of salvage pools.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.272	License plates: Motorcycles	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.274	License plates: Trailers	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.275	License plates: Display	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.280	Expiration and renewal of registration.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.2805	Department not to renew registration if local authority has filed notice of nonpayment pursuant to NRS 484.444; fee for service performed by Department.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.2807	Requirements for registration if local government has filed notice of nonpayment pursuant to NRS 484.444.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.281	Authority of Department of Motor Vehicles to allow authorized inspection station or authorized station to renew certificates of registration; adoption of regulations.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
482.283	Change of name or place of residence: Notice to Department required; timing and contents of notice.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.285	Certificates, decals and number plates: Illegibility, loss, mutilation or theft; obtaining of duplicates or substitutes; fees and taxes.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
482.290	Assignment and recording of new number for identification of vehicle if old number destroyed or obliterated; fee; penalty for willful defacement, alteration, substitution or removal of number with intent to defraud.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 482, Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases—Permits for Unregistered Motor Vehicles				
482.385	Registration of vehicle of nonresident owner not required; exceptions; registration of vehicle by person upon becoming resident of this State; penalty; taxes and fees; surrender or nonresident license plates and registration certificate; citation for violation.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 482, Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases—Cancellation of Registration				
482.461	Failure of mandatory test of emissions from engines; notification; cost of inspection.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes, Title 43, Public Safety; Vehicles; Watercraft; Chapter 482, Motor Vehicles and Trailers: Licensing, Registration, Sales and Leases—Penalties				
482.565	Administrative fines for violations other than deceptive trade practices; injunction or other appropriate remedy; enforcement proceedings.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
Nevada Revised Statutes (2005), Title 43, Public Safety; Vehicles; Watercraft; Chapter 484, Traffic Laws—Other Equipment				
484.101	Passenger car defined	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
484.644	Device for control of pollution: Use required; disconnection or alteration prohibited; exceptions.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).
484.6441	Device for control of pollution: Penalty; proof of conformity may be required.	5/11/07	73 FR 38124 (7/3/08)	Nevada Revised Statutes (2005). See 40 CFR 52.1490(c)(71)(i)(A)(*1*).

[*] Not applicable.

[1] The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

■ 4. In newly redesignated § 52.1490, the section heading and paragraph (a) are revised to read as follows:

§ 52.1490 Original identification of plan.

(a) This section identified the original ''Air Quality Implementation Plan for the State of Nevada'' and all revisions submitted by the State of Nevada that

were federally approved prior to September 28, 2010.

* * * * *

[FR Doc. 2012–5554 Filed 3–12–12; 8:45 am]

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Sheepnose and Spectaclecase Mussels Throughout Their Range; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2010–0050; 4500030113]

RIN 1018–AV93

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Sheepnose and Spectaclecase Mussels Throughout Their Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status under the Endangered Species Act of 1973 (Act), as amended, for the spectaclecase *(Cumberlandia monodonta)* and sheepnose *(Plethobasus cyphyus),* two freshwater mussels. This final rule implements the Federal protections provided by the Act for these species throughout their ranges, including sheepnose in Alabama, Illinois, Indiana, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin, and spectaclecase in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin. We determined that critical habitat for the spectaclecase and sheepnose is prudent, but not determinable at this time.

DATES: This rule becomes effective on April 12, 2012.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R3–ES–2010–0050. Comments and materials received, as well as supporting documentation used in preparing this final rule will be available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Rock Island, Illinois Ecological Services Field Office, 1511 47th Avenue, Moline, IL 61265; telephone 309–757–5800.

FOR FURTHER INFORMATION CONTACT: Richard Nelson, Field Supervisor, at the U.S. Fish and Wildlife Service, Rock Island, Illinois Ecological Services Field Office, (see **ADDRESSES** section). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Previous Federal Action

Federal actions for these species prior to January 19, 2011, are outlined in our proposed rule for these actions (76 FR 3392–3420). Publication of the proposed rule opened a 60-day comment period, which closed on March 21, 2011.

Species Descriptions

The spectaclecase *(Cumberlandia monodonta)* is a member of the mussel family Margaritiferidae and was originally described as *Unio monodonta* Say, 1829. The type locality is the Falls of the Ohio (on the Ohio River in the vicinity of Louisville, Kentucky, and adjacent Indiana), and the Wabash River (probably the lower portion in Illinois and Indiana) (Parmalee and Bogan 1998, p. 49). Parmalee and Bogan (1998, p. 49) summarized the synonymy of the spectaclecase. The species has been placed in the genera *Unio, Margaritana, Alasmidonta, Margarita, Margaron,* and *Margaritifera* at various times in history. Ortmann (1912, p. 13) placed it in the monotypic (a taxonomic group with only one biological type) genus *Cumberlandia* in the family Margaritiferidae. Currently recognized synonymy includes *Unio soleniformis* (Lea). Smith (2001, p. 43) reassigned the spectaclecase to the Holarctic genus *Margaritinopsis* based on shell and gill characters. The Service, however, will defer to the Committee on Scientific and Vernacular Names of Mollusks of the Council of Systematic Malacologists, American Malacological Union (Turgeon *et al.* 1998), on whether the genus *Margaritinopsis* is accepted as valid for the spectaclecase. Until an official decision is made, the Service will use the commonly accepted *Cumberlandia* for the genus of this species. Spectaclecase is the accepted common name for *Cumberlandia monodonta* (Turgeon *et al.* 1998, p. 32).

The spectaclecase is a large mussel that reaches at least 9.25 inches (23.5 centimeters (cm)) in length (Havlik 1994, p. 19). The shape of the shell is greatly elongated, sometimes arcuate (curved), and moderately inflated, with the valves being solid and moderately thick, especially in older individuals (Parmalee and Bogan 1998, p. 49). Both anterior and posterior ends of the shell are rounded with a shallow depression near the center of the shell (Baird 2000, p. 6; Parmalee and Bogan 1998, p. 49). The anterior end is higher than the posterior end (Baird 2000, p. 6). The posterior ridge is low and broadly rounded (Parmalee and Bogan 1998, p. 50). Year-one specimens have heavy ridges running parallel with the growth arrests, which are shell lines that indicate slower periods of growth, thought to be laid down annually (Baird 2000, p. 6). The periostracum (external shell surface) is somewhat smooth, rayless, and light yellow, greenish-tan, or brown in young specimens, becoming rough and dark brown to black in old shells (Parmalee and Bogan 1998, p. 50). The shell commonly will crack posteriorly when dried (Oesch 1984, p. 31).

Internally, the single pseudocardinal tooth (a triangular tooth-like structure along the hinge line of the internal portion of the shell) is simple and peg-like in the right valve, fitting into a depression in the left (Parmalee and Bogan 1998, p. 50). The lateral teeth are straight and single in the right valve, and double in the left valve, but become fused with age into an indistinct raised hinge line (Parmalee and Bogan 1998, p. 50). The soft anatomy was described by Williams *et al.* (2008, pp. 497–498). The color of the nacre (interior covering of the shell) is white, occasionally granular and pitted, mostly iridescent in young specimens, but becoming iridescent posteriorly in older shells (Parmalee and Bogan 1998, p. 50). There are no differences between the sexes in the shells of this species (Baird 2000, p. 19). Key characters for distinguishing the spectaclecase from other mussels are its large size, elongate shape, arcuate ventral margin, dark coloration, roughened periostracum, poorly developed teeth, and white nacre (Oesch 1984, pp. 31–32). No other North American mussel species has this suite of characters.

The sheepnose *(Plethobasus cyphyus)* is a member of the mussel family Unionidae and was originally described as *Obliquaria cyphya* Rafinesque, 1820. The type locality is the Falls of the Ohio (Parmalee and Bogan 1998, p. 175) on the Ohio River in the vicinity of Louisville, Kentucky, and adjacent Indiana. Parmalee and Bogan (1998, p. 175) summarized the synonymy of the species. Over the years, the name of this species has been variably spelled *cyphya, scyphius, cyphius, cyphia, cyphyum,* and ultimately *cyphyus.* Over the years the species has been placed in the genera *Obliquaria, Unio, Pleurobema, Margarita,* and *Margaron.* It was ultimately placed in the genus *Plethobasus* by Ortmann (1919, pp. 65–66), where it remains today (Turgeon *et al.* 1998, p. 35). The Service recognizes *Unio aesopus* and *U. compertus* as synonyms of *Plethobasus cyphyus.* Sheepnose is the accepted common name for *Plethobasus cyphyus* as established by the Committee on Scientific and Vernacular Names of

Mollusks of the Council of Systematic Malacologists, American Malacological Union (Turgeon *et al.* 1998, p. 35). The Service also recognizes ''bullhead'' and ''clear profit'' as older common names for the sheepnose.

Key characters useful for distinguishing the sheepnose from other mussels are its color, the occurrence of central tubercles, and its general shape. Oesch (1984, p. 120) and Parmalee and Bogan (1998, p. 176) describe the sheepnose as a medium-sized mussel that reaches nearly 5 inches (13 cm) in length. The shell is elongate ovate in shape, moderately inflated, and with thick, solid valves. The anterior end of the shell is rounded, but the posterior end is somewhat bluntly pointed to truncate. The dorsal margin of the shell is nearly straight, while the ventral margin is uniformly rounded or slightly convex. The posterior ridge is gently rounded, becoming flattened ventrally and somewhat biangular. There is a row of large, broad tubercular swellings on the center of the shell extending from the beak to the ventral margin. A broad, shallow sulcus (depression on the furrow on the outside surface of the shell) lies between the posterior ridge and central row. Beaks are elevated, high, and placed near the anterior margin. Juvenile beak sculpture consists of a few concentric ridges at the tip of the beaks. The periostracum is generally smooth, shiny, rayless, and light yellow to a dull yellowish brown. Concentric ridges resulting from growth arrests are usually darker.

Oesch (1984, p. 120) describes the internal anatomy of the sheepnose as the left valve having two heavy, erect, roughened, somewhat triangular, and divergent pseudocardinal teeth. The right valve has a large, triangular, roughened pseudocardinal tooth. The lateral teeth are heavy, long, slightly curved, and serrated. The beak cavity is shallow to moderately deep. The soft anatomy was described by Williams *et al.* (2008, p. 94). The color of the nacre is generally white, but may be pinkish to cream-colored and iridescent posteriorly. There are no differences between the sexes in the shells of this species. The shell of the sheepnose is extremely hard and was given the name ''clear profit'' by early commercial shellers, being too hard to cut into buttons (Wilson and Clark 1914, p. 57). The species also preserves well in archaeological material (Morrison 1942, p. 357).

Life History

The general biology of the spectaclecase and sheepnose are similar to other bivalve mollusks belonging to the families Margaritiferidae and Unionidae, order Unioniformes or Unionoida. Adult mussels suspension-feed, spending their entire lives partially or completely buried within the substrate (Murray and Leonard 1962, p. 27). Adults feed on algae, bacteria, detritus, microscopic animals, and dissolved organic material (Christian *et al.* 2004, pp. 108–109; Nichols and Garling 2000, p. 873; Silverman *et al.* 1997, p. 1859; Strayer *et al.* 2004, pp. 430–431). Recent evidence suggests that adult mussels may also deposit feed on particles in the sediment (Raikow and Hamilton 2001, p. 520). For their first several months, juvenile mussels employ foot (pedal) feeding, consuming bacteria, algae, and detritus (Yeager *et al.* 1994, p. 221).

As a group, mussel longevity varies tremendously with some species living only about 4 years (Haag and Rypel 2010, p. 5) but possibly up to 100 to 200 years in other species (Ziuganov *et al.* 2000, p. 102). However, the vast majority of species live a few decades (Haag and Rypel 2010, pp. 4–6). Baird (2000, pp. 54, 59, 67) aged 278 specimens of the spectaclecase in Missouri by sectioning the hinge ligament, as most margaritiferids are aged. The maximum age determined was 56 years, but he surmised that some large individuals may have been older. A very large specimen (9.25 inches (23.5 cm)) from the St. Croix River, Minnesota and Wisconsin, was estimated (based on external growth ring counts) to be approximately 70 years old (Havlik 1994, p. 19). Sheepnose longevity has been reported as being nearly 30 years (Watters *et al.* 2009, p. 221). Thick shelled mussels from large rivers, like sheepnose, are thought to live longer than other species (Stansbery 1961, p. 16).

Mussels tend to grow relatively rapidly for the first few years, and then slow appreciably at sexual maturity, when energy presumably is being diverted from growth to reproductive activities (Baird 2000, pp. 66–67). In spectaclecase, the biggest change in growth rate appears to occur at 10 to 15 years of age, which suggests that significant reproductive investment does not occur until they reach 10 years of age (Baird 2000, pp. 66–67).

Margaritiferids and unionids have an unusual mode of reproduction. With very few exceptions, their life cycle includes a brief, obligatory parasitic stage on a host organism, typically fish. Eggs develop into microscopic larvae (glochidia) within special gill chambers of the female. The female expels the mature glochidia, which must attach to an appropriate host species (generally a fish) to complete development. Host specificity varies among margaritiferids and unionids. Some species appear to use a single host, while others can transform on several host species. Following successful infestation, glochidia encyst (enclose in a cyst-like structure), remain attached to the host for several weeks, and then drop off as newly transformed juveniles. For further information on the life history of freshwater mussels, see Williams *et al.* 2008.

Mussel biologists know relatively little about the specific life-history requirements of the spectaclecase and sheepnose. Most mussels, including the spectaclecase and sheepnose, have separate sexes. Age at sexual maturity of the spectaclecase was estimated to be 4 to 5 years for males and 5 to 7 years for females, with sex ratios approximating 50:50 (Baird 2000, p. 24). The spectaclecase life cycle includes a parasitic phase; however, despite extensive investigation, the host species is not yet known. The spectaclecase is thought to release glochidia from early April to late May in the Meramec and Gasconade Rivers, Missouri (Baird 2000, p. 26). Gordon and Smith (1990, p. 409) reported the species as producing two broods, one in spring or early summer and the other in the fall, also based on Meramec River specimens. In the Meramec and Gasconade Rivers, however, Baird (2000, pp. 26–27) found no evidence of two spawns in a given year.

Age at sexual maturity for the sheepnose is unknown, but given its estimated longevity, probably occurs after a few years. The sheepnose is thought to be a short-term brooder, with egg fertilization taking place in early summer (Parmalee and Bogan 1998, p. 177; Williams *et al.* 1998, p. 498), and glochidial release presumably occurring later in the summer. Hermaphroditism occurs in many mussel species (van der Schalie 1966, p. 77), but is not known for the sheepnose. If hermaphroditism does occur in the sheepnose, it may explain the occurrence of small, but persistent populations over long periods of time.

Spectaclecase and sheepnose glochidia are released in conglutinates (gelatinous structures containing numerous glochidia and analogous to cold capsules). Spectaclecase glochidia lack hooks (teeth-like structures that presumably function to pierce through the host's skin tissue) and are the smallest glochidia known of any North American freshwater mussel; they measure approximately 0.0024 inch (0.06 mm) in both length and height (Baird 2000, p. 22). Tens to hundreds of

thousands of glochidia may occur in each conglutinate. Based on 8 Missouri spectaclecase specimens, the number of conglutinates released per female varied from 53 to 88, with a mean of 64.5 (Baird 2000, p. 23). Total fecundity (reproductive potential, including glochidia and ova) in Baird's (2000, p. 27) Missouri study varied from 1.93 million to 9.57 million per female. In mussels, fecundity is related positively to body size and inversely related to glochidia size (Bauer 1994, pp. 940–941). The reproductive potential of the spectaclecase is, therefore, phenomenal. However, the fact that extant populations are generally skewed towards larger adults strongly indicates that survival rates to the adult stage must be extraordinarily low.

Researchers in Wisconsin observed female spectaclecase under boulders in the St. Croix River simultaneously releasing their conglutinates (Heath 2008a, pers. comm.). The spectaclecase conglutinates are entrained along a transparent, sticky mucous strand up to several feet in length (Lee and Hove 1997, p. 9). Baird (2000, p. 29) observed the release of loose glochidia and small fragments of conglutinates. Based on his observations, he hypothesized that conglutinates sometimes contain mostly immature glochidia, and that conglutinates containing mostly immature glochidia may be aborted when disturbed.

Sheepnose conglutinates are narrow and lanceolate in outline, solid and red or pink in color, and discharged in unbroken form (Oesch 1984, pp. 118–119). Discharge of sheepnose conglutinates have been observed in late July (Ortmann 1911, p. 306) and August (Williams *et al.* 2008, p. 498). Ortmann (1911, p. 306) described them as being pink and ''lying behind the posterior end of the shell, which were greedily devoured by a number of minnows.'' Sheepnose glochidia are semicircular in outline, with the ventral margin obliquely rounded, hinge line long, and medium in size. The length (0.009 inch (0.23 mm)) is slightly greater than the height (0.008 inch (0.20 mm)) (Oesch 1984, p. 119). Several hundred glochidia probably occur in each conglutinate. Judging from the size of the glochidia, total fecundity (including glochidia and ova) per female sheepnose is probably in the tens of thousands.

Like many freshwater mussels, the complex life histories of the spectaclecase and sheepnose have many vulnerable components that may prevent successful reproduction or recruitment of juveniles into existing populations. Glochidia must come into contact with a specific host species for their survival to be ensured. Without the proper host, the glochidia will perish. The host(s) for the spectaclecase is unknown, although more than 60 species of fish, amphibians, and crayfish have been tested in the lab during host suitability studies (Baird 2000, pp. 23–24; Henley and Neves 2006, p. 3; Hove *et al.* 2009, pp. 22–23; Hove *et al.* 1998, pp. 13–14; Hove *et al.* 2008, p. 4; Knudsen and Hove 1997, p. 2; Lee and Hove 1997, pp. 9–10). Two of 690 wild-collected fish checked by Baird (2000, p. 24) had spectaclecase glochidia attached to their gills; these fish were the bigeye chub *(Hybopsis amblops)* and pealip redhorse *(Moxostoma pisolabrum).* However, these fish are not confirmed as hosts, because the encysted glochidia had not grown measurably and glochidial transformation was not observed (Baird 2000, p. 24). Spectaclecase populations are oftentimes highly aggregated (see *Habitat*) with many apparently even-aged individuals, suggesting that glochidia may excyst simultaneously from a host (Gordon and Layzer 1989, p. 19). Additional host work is underway to test the wild-collected fish species that were found with encysted spectaclecase glochidia (pealip redhorse and bigeye chub), as well as to test additional species of fish and other aquatic organisms for suitability. Host information is needed so that existing populations can be artificially cultured for potential population augmentation and reintroduction efforts.

Little is known regarding host fish of the sheepnose. Until recently the only cited host for this species came from a 1914 report that found glochidia naturally attached to sauger *(Sander canadense)* in the wild. No confirmation of successful transformation was recorded in this early report (Surber 1913, p. 110; Wilson 1914, pp. 338–340). However, recent laboratory studies at the Genoa National Fish Hatchery, the University of Minnesota, and Ohio State University have successfully transformed sheepnose glochidia on fathead minnow *(Pimephales promelas),* creek chub *(Semotilus atrromaculatus),* central stoneroller *(Campostoma anomalum),* and brook stickleback *(Culaea inconstans)* (Watters *et al.* 2005, pp. 11–12; Brady 2008, pers. comm.; Watters 2008, pers. comm.). Although these are identified as suitable hosts in laboratory studies, natural interactions between the aforementioned fishes and the sheepnose seem rare and infrequent due to habitat preferences. Fish that frequent medium to large rivers near mussel beds, like the sauger, may act as hosts in the natural environment.

Habitat

The spectaclecase generally inhabits large rivers, and is found in microhabitats sheltered from the main force of current. It occurs in substrates from mud and sand to gravel, cobble, and boulders in relatively shallow riffles and shoals with a slow to swift current (Baird 2000, pp. 5–6; Buchanan 1980, p. 13; Parmalee and Bogan 1998, p. 50). According to Stansbery (1967, pp. 29–30), this species is usually found in firm mud between large rocks in quiet water very near the interface with swift currents. Specimens have also been reported in tree stumps, in root masses, and in beds of rooted vegetation (Oesch 1984, p. 33). Similar to other margaritiferids, spectaclecase occurrences throughout much of its range tend to be aggregated (Gordon and Layzer 1989, p. 19), particularly under slab boulders or bedrock shelves (Baird 2000, p. 6; Buchanan 1980, p. 13; Parmalee and Bogan 1998, p. 50), where they are protected from the current. Up to 200 specimens have been reported from under a single large slab in the Tennessee River at Muscle Shoals, Alabama (Hinkley 1906, p. 54). Unlike most species that move about to some degree, the spectaclecase may seldom if ever move except to burrow deeper and may die from stranding during droughts (Oesch 1984, p. 17). At least one recent study, however, indicated that spectaclecase can be quite active; specifically, relocated individuals moved to more suitable habitat (Dunn *et al.* 1999, pp.175, 177).

The sheepnose is a larger-stream species occurring primarily in shallow shoal habitats with moderate to swift currents over coarse sand and gravel (Oesch 1984, p. 121). Habitats with sheepnose may also have mud, cobble, and boulders. Sheepnose in larger rivers may occur at depths exceeding 6 m (Williams *et al.* 2008, p. 498).

Genetics

A recent genetic study (Monroe *et al.* 2007, pp. 7–13) indicates that much of the remaining genetic variability in the spectaclecase is represented in each of the remaining large populations, and that these populations do not appear to differ significantly from one another.

In contrast, genetics studies of the sheepnose (Roe 2011, pers. comm.) indicate that extant populations appear to be genetically isolated from each other. The conservation implications from this study are that each of its populations should be managed as independent entities for purposes of captive rearing and propagation until evidence indicates a particular

population may benefit from the introduction of novel genetic information (Roe 2011, pers. comm.).

Species Distribution

We use the term ''population'' here in a geographical and not genetic sense, defining it as all individuals of the spectaclecase or sheepnose living in one stream. Using the term in this way allows the status, trends, and threats to be discussed comparatively across streams where the species occur. In using this term we do not imply that their populations are currently reproducing and recruiting or that they are distinct genetic units. We considered populations of the spectaclecase and sheepnose as extant if live or fresh-dead specimens have been observed or collected since 1990. A ''population cluster'' refers to where two or more adjacent stream populations of a species occur without a barrier (for example, a dam and impoundment) between them.

Following are generalized sets of criteria that were used to categorize the relative status of populations of spectaclecase and sheepnose. The status of a population is considered ''improving'' if: (1) There is evidence that habitat degradation appears insignificant, (2) live or fresh dead mussel abundance has improved during post-1990 surveys, or (3) ample evidence of recent recruitment has been documented during post-1990 surveys. The status of a population is considered ''stable'' if: (1) There is little evidence of significant habitat loss or degradation, (2) live or fresh dead mussel abundance has been fairly consistent during post-1990 surveys, or (3) evidence of relatively recent recruitment has been documented during post-1990 surveys. The status of a population is considered ''declining'' if: (1) There is ample evidence of significant habitat loss or degradation, (2) live or fresh dead mussel numbers have declined during recent surveys, or (3) no evidence of relatively recent recruitment has been documented during recent surveys. The status of a population is considered ''extirpated'' if: (1) All known suitable habitat has been destroyed, or (2) no live or fresh dead mussels of any age have been located during recent surveys. The status of a population is considered ''unknown'' if the available information is inadequate to place the population in one of the above four categories. In a few cases, additional information not listed above may have been used to categorize a population.

Spectaclecase Historical Range and Distribution

The spectaclecase occurred historically in at least 44 streams in the Mississippi, Ohio, and Missouri River basins (Butler 2002b, p. 6, Heath 2008, pers. comm.). Its distribution comprised portions of 14 States (Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin). Historical occurrences by stream system (with tributaries) include the following:

- Upper Mississippi River system (Mississippi River (St. Croix), Chippewa, Rock, Salt, Illinois (Des Plaines, Kankakee Rivers), Meramec (Bourbeuse, Big Rivers), Kaskaskia Rivers; Joachim Creek);
- Lower Missouri River system (Missouri River (Platte, River Aux Vases, Osage (Sac, Marais des Cygnes Rivers), Gasconade (Osage Fork, Big Piney River) Rivers));
- Ohio River system (Ohio River (Muskingum, Kanawha, Green, Wabash Rivers));
- Cumberland River system (Cumberland River (Big South, Caney Fork; Stones, Red Rivers));
- Tennessee River system (Tennessee River (Holston, Nolichucky, Little, Little Tennessee, Clinch (Powell River), Sequatchie, Elk, Duck Rivers)); and
- Lower Mississippi River system (Mulberry, Ouachita Rivers).

Spectaclecase Current Range and Distribution

Extant populations of the spectaclecase are known from 20 streams in 11 States (Butler 2002b, p. 7). These include the following stream systems (with tributaries):

- Upper Mississippi River system (Mississippi River (St. Croix, Meramec (Bourbeuse, Big Rivers) Rivers));
- Lower Missouri River system (Osage, Sac, Gasconade (Osage Fork, Big Piney River) Rivers);
- Lower Ohio River system (lowermost Ohio River (Kanawha, Green Rivers));
- Cumberland River system (Cumberland River);
- Tennessee River system (Tennessee River (Nolichucky, Clinch, Duck Rivers)); and
- Lower Mississippi River system (Mulberry, Ouachita Rivers).

The 20 extant spectaclecase populations occur in the following 11 States (with streams):

- Alabama (Tennessee River),
- Arkansas (Mulberry, Ouachita Rivers),
- Illinois (Mississippi, Ohio Rivers),
- Iowa (Mississippi River),
- Kentucky (Ohio, Green, Cumberland Rivers),
- Minnesota (Mississippi, St. Croix Rivers),
- Missouri (Mississippi, Meramec, Bourbeuse, Big, Gasconade, Sac, Osage, Big Piney Rivers; Osage Fork),
- Tennessee (Tennessee, Clinch, Nolichucky, Duck Rivers),
- Virginia (Clinch River),
- West Virginia (Kanawha River), and
- Wisconsin (Mississippi, St. Croix Rivers).

Spectaclecase Population Estimates and Status

Based on historical and current data, the spectaclecase has declined significantly rangewide and is now known from only 20 of 44 streams (Table 1), representing a 55 percent decline. The species is presumed extirpated from thousands of river miles and from numerous reaches of habitat in which it occurred historically, including long reaches of upper Mississippi, Ohio, Cumberland, and Tennessee Rivers and many other streams and stream reaches. Of the 20 extant populations, 6 are represented by only one or two recent specimens each and are likely declining and some may be extirpated. Populations in Mississippi and Clinch Rivers have recently experienced significant population declines. Most surviving populations face significant threats and with few exceptions are highly fragmented and restricted to short stream reaches. The spectaclecase is considered extirpated from Indiana, Kansas, and Ohio. Reports of the spectaclecase from 1877 in the Blue and Elkhorn Rivers, Nebraska are not considered valid (Fritz 2010, pers. comm.). The only relatively strong populations remaining are in the Meramec and Gasconade Rivers in Missouri and in the St. Croix River in Minnesota and Wisconsin.

TABLE 1—SPECTACLECASE STATUS IN ALL STREAMS OF HISTORICAL OR CURRENT OCCURRENCE

River basin	Stream	Current status	Date of last live or fresh dead observation	Comments
Upper Mississippi River	Mississippi River	Declining	2009	
	St. Croix River	Stable	2008	
	Chippewa River	Extirpated	1989	
	Rock River	Extirpated	~1970	
	Salt River	Extirpated	1980	
	Illinois River	Extirpated	~1914	
	Des Plaines River	Extirpated	~1921	
	Kankakee River	Extirpated	1906	
	Meramec River	Stable	2003	
	Bourbeuse River	Stable	1997	
	Big River	Stable	2002	
	Kaskaskia River	Extirpated	~1970	
	Joachim Creek	Extirpated	~1965	
Lower Missouri River	Missouri River	Extirpated	~1914	
	Platte River	Extirpated	~1917	
	River Aux Vases	Extirpated	~1974	
	Osage River	Unknown	2010	
	Sac River	Declining	2001	
	Marais des Cygnes River	Extirpated	Unknown	Relic shell observed in 1998.
	Gasconade River	Stable	2007	
	Big Piney River	Unknown	2004	
	Osage Fork	Unknown	1999	
Ohio River	Ohio River	Declining	1994	Single individual observed.
	Muskingum River	Extirpated	Unknown	Relic shell observed in 1995.
	Kanawha River	Unknown	2005	Two live individuals observed.
	Green River	Unknown	2006	
	Wabash River	Extirpated	1970	
Cumberland River	Cumberland River	Unknown	2008	Single individual observed.
	Big South Fork	Extirpated	1911	
	Caney Fork	Extirpated	1988	
	Stones River	Extirpated	1968	
	Red River	Extirpated	1966	
Tennessee River	Tennessee River	Unknown	2001	
	Holston River	Extirpated	1981	
	Nolichucky River	Unknown	1991	
	Little River	Extirpated	~1911	
	Little Tennessee River	Extirpated	Unknown	Relic shell observed in 1980, previous record archaeological.
	Clinch River	Declining	2010	
	Powell River	Extirpated	~1978	
	Sequatchie River	Extirpated	~1925	
	Elk River	Extirpated	Unknown	Relic shell observed in 1998.
	Duck River	Unknown	Early 2000s	Single individual observed.
Lower Mississippi River	Mulberry River	Unknown	~1995	Single individual observed.
	Ouachita River	Declining	1990s	Two individuals observed.

Based on collections made more than 100 years ago, the spectaclecase was historically widespread and locally common in many streams rangewide. The spectaclecase is often absent from archaeological shell middens (Morrison 1942, p. 353) and is generally difficult to find due to its habit of occurring under rocks or ledges and burrowing deep into the substrate (Parmalee 1967, p. 25). Therefore, the chance of casually finding the species where population numbers are low is remote.

The spectaclecase was considered a rare species by mussel experts as early as 1970 (Stansbery 1970, p. 13), when the first attempt was made to compile a list of imperiled mussels. The spectaclecase is considered widely distributed but absent from many areas where it formerly occurred (Cummings and Mayer 1992, p. 22). The American Malacological Union and American Fisheries Society consider the spectaclecase to be threatened (Williams *et al.* 1993, p. 10). Six of the 20 streams (or big river reaches) considered to harbor extant populations of the spectaclecase are represented by one or two recent specimens (for example, Ohio, Kanawha, Cumberland, Duck, Ouatchita, and Mulberry Rivers), exemplifying the species' imperiled status rangewide.

In some streams, the last reported records for the spectaclecase occurred decades ago (for example, Rock, Des Plaines, Kaskaskia, Platte, Wabash, Stones, Red, and Little Rivers; River Aux Vases; Big South Fork). Parmalee (1967, p. 25) considered the spectaclecase to be ''rare and of local occurrence'' in Illinois in the 1960s, but that it had ''[a]pparently already been extirpated from the Illinois and Kankakee Rivers.'' The only records known from some streams are relic specimens collected around 1975 (for example, Marais des Cygnes, Muskingum, and Elk Rivers).

Although quantitative historical abundance data for the spectaclecase is rare, generalized relative abundance (the percent abundance of a species, divided by the total abundance of all mussel species combined) was sometimes noted in the historical literature and can be

inferred from museum lots. The following is a summary of what is known about the relative abundance and trends of presumably extant spectaclecase populations by stream system.

Upper Mississippi River System

The spectaclecase was historically known from 13 streams in the upper Mississippi River system. Currently, in addition to the mainstem, only four streams in the system are thought to have extant spectaclecase populations.

Mississippi River mainstem: In 1907, Bartsch found spectaclecase at approximately 9 of the 140 sampled sites from what are now Mississippi River Pools (MRP) 9 to 22 (Havlik 2001b, p. 10). Grier (1922, p. 11) did not find spectaclecase in sampled portions of MRP 4 to 6. The team of van der Schalie and van der Schalie (1950, p. 456), reporting on studies from the upper Mississippi River to the Missouri River mouth, stated that no live spectaclecase were found in their study of 254 sites during 1930–31. Havlik and Stansbery (1977, p. 12) thought the spectaclecase had disappeared from MRP 8 by the 1920s. Thiel (1981, p. 10) found only shell material in MRP 11 in a survey that spanned MRP 3 to 11 conducted during 1977 to 1980. Whitney *et al.* (1997, p. 12) recorded a single individual during 1994–95 in MRP 15, for a density of 0.004 per square foot (sq. ft) (0.04 per square meter (sq. m)). Helms (2008, p. 8) found eight live individuals and numerous shells during a search of MRP 19, representing the most recent and numerous collection of the species in the Mississippi River.

The spectaclecase is thought to be extant in at least four pools of the Mississippi River mainstem, albeit in very low numbers. Records include MRP 15 (Quad Cities area, Illinois and Iowa; in 1998), MRP 16 (Muscatine area, Iowa and Illinois in 1997), MRP 19 (Burlington area, Illinois and Iowa in 2009), and MRP 22 (Quincy, Illinois and Hannibal, Missouri, area in 1996). Populations may still persist in MRP 9 and 10 where specimens were found in the 1980s (Heath 2010a, pers. comm.). Only a relic spectaclecase shell was found in MRP 3 above the St. Croix River confluence in 2001, and none were found in subsequent surveys (Kelner 2008, pers. comm.). In general, spectaclecase population levels in the upper Mississippi River appear to have always been fairly small and difficult to locate, and are now of questionable long-term persistence.

St. Croix River: The northernmost and one of the three most significant extant populations of the spectaclecase occurs in the St. Croix River, Minnesota and Wisconsin. The population is primarily found in the middle reaches of the river in Chisago and Washington Counties, Minnesota, and Polk and St. Croix Counties, Wisconsin (river miles (RM) 16 to 118). Seventeen live spectaclecase were collected from river mile 16 in the St. Croix River in 1994 (Dunn *et al.* 1999, p. 174). Havlik (1994, p. 19) reported spectaclecase in the St. Croix Wild River State Park portion of the river (approximately RM 62 to 65) and the reproducing population below the St. Croix Falls Dam at St. Croix Falls, Wisconsin (dam located at approximately RM 52). Additional survey work in the lower river at Afton State Park (approximately RM 7 to 9) failed to find the spectaclecase (Havlik 1994, p. 19).

Hornbach (2001, p. 218) reported 68 live specimens from 4 of 16 river reaches. Relative abundance for the spectaclecase varied from 0.67 percent from RM 78 to 92 (20 live spectaclecase among 17 species collected), 0.008 percent from RM 63 to 78 (41 live, 24 species), 0.0006 percent from RM 42 to 52 (6 live, 33 species), and 0.003 percent from RM 40 to 42 (1 live, 21 species). Reaches where the spectaclecase is extant are fragmented by the pool formed from the power dam at St. Croix Falls.

Baird (2000, p. 70) presented a length-frequency histogram for the spectaclecase in the St. Croix River using data from an unpublished 1989 study. The 962 specimens were fairly evenly distributed over the length scale, indicating multiple age classes including healthy numbers of young spectaclecase recruiting into the population. Baird (2000, p. 70) used growth curves determined from his Missouri study of the species to estimate the ages of spectaclecase of known size in the St. Croix River. The percentage of newly recruited individuals (less than or equal to 10 years of age) in the St. Croix was 40 percent—considerably higher than that noted from the Gasconade (10.4 percent) and Meramec (2.8 percent) Rivers in Missouri, two other streams with abundant spectaclecase populations that he studied. The St. Croix spectaclecase population, while among the largest known, may also be the healthiest based on this metric. The spectaclecase is currently distributed from RM 17 to 118 and appears to be recruiting from RM 17 to 54 (downstream of the St. Croix Falls Dam) (Heath 2008, pers. comm.).

The long-term health of mussel populations in the St. Croix may be in jeopardy, however. Hornbach *et al.* (2001, pp. 12–13) determined that juvenile mussel density had suffered a statistically significant decline at three of four lower St. Croix sites sampled in the 1990s and in 2000. Zebra mussels also threaten the spectaclecase and other mussel populations in the lower St. Croix River. A 2000 survey at 20 sites on the lowermost 24 miles of the St. Croix River estimated that nearly one percent of the mussels were infested with zebra mussels (Kelner and Davis 2002, p. 36).

Meramec River: The Meramec River flows into the Mississippi River downstream of St. Louis in east-central Missouri. Its spectaclecase population represents one of the best remaining rangewide. In the late 1970s, Buchanan (1980, p. 13) reported this species from 31 sites, 19 with live individuals. Live or fresh dead individuals occurred from RM 17.5 to 145.7. Buchanan (1980, p. 6) considered it to be common in the lower 108 miles (174 km) of the Meramec River, but locally abundant from RM 17.5 to 84. In 1997, Roberts and Bruenderman (2000, pp. 39, 44), using similar sampling methods as Buchanan (1980, pp. 4–5), resurveyed the Meramec River system and collected spectaclecase from 23 sites, 19 of which had live individuals. They found the largest populations between RM 56.7 and 118.8. Among 17 sites where spectaclecase were found during both surveys, the species was less abundant at 9 sites and more abundant at 5 sites in 1997. At three sites, only relic shells were found during both surveys.

In the 1970s, Buchanan (1980, p. 10) reported finding 456 live individuals among the 17 shared sites, whereas Roberts and Bruenderman (2000, p. 44) recorded only 198. A reduction in spectaclecase numbers (260 to 33) at RM 59.5 accounted for most of the overall decrease in abundance between the studies. Confounding the decrease in numbers among shared survey sites, Roberts and Bruenderman (2000, p. 44) surveyed three sites between RM 56.7 and 118.8 that were unsampled by Buchanan (1980, pp. 1–69) and found 500, 538, and 856 live spectaclecase. The most specimens found at a single site in the earlier study was 260 (RM 59.5). Currently, the population in the Meramec River stretches over much of the mainstem, a distance of more than 100 miles (161 km) from RM 18.5 to 120.4.

The spectaclecase represented 28 percent of all mussels sampled in the Meramec River in 1997 (Roberts and Bruenderman 2000, p. 39). Baird (2000, pp. 62, 68,77) extensively studied the demographics of the Meramec River spectaclecase population in the late

1990s. The mean estimated age of the population was 32 years. Individuals less than 10 years of age comprised only 2.8 percent of the Meramec population sampled (a total of 2,983 individuals). At the four sites he intentionally selected for their large spectaclecase populations, densities ranged from 0.01 to 0.12 per sq. ft (0.1 to 1.3 per sq. m) while estimated population numbers at these sites ranged from 933 to 22,697. Baird (2000, p. 71) thought that conditions for spectaclecase recruitment in the Meramec had declined in the past 20 to 30 years, but the causes were undetermined. The prevalence of larger adults in the Meramec population may be cause for concern, as it appears to indicate a low level of recruitment in the population.

Bourbeuse River: The Bourbeuse River is a northern tributary of the Meramec River joining it at RM 68. Its spectaclecase population was sampled in 1997 at a single site (RM 10.3), and 7 live individuals were found (Roberts and Bruenderman 2000, p. 91). Sampling near the mouth (RM 0.4), Buchanan (1980, p. 16) found only relic shells. The Bourbeuse population is probably dependent on the much larger Meramec population for long-term sustainability.

Big River: Another Meramec tributary with a population of the spectaclecase, the Big River flows northward into the Meramec River at RM 38. The spectaclecase is only known from the lower end (RM 1.3), where 14 live specimens were found in 1997 (Roberts and Bruenderman 2000, p. 96). At RM 0.4, Buchanan (1980, p. 13) found only relic shells. Similar to the Bourbeuse River population, the population in the Big River is probably dependent on the much larger Meramec population for sustainability. The Meramec River system, including the lower Bourbeuse, lower Big, and Meramec River mainstems, can be considered a single spectaclecase population cluster.

Lower Missouri River System

The spectaclecase was historically known from 10 streams in the Missouri River system. Currently, only five of these streams are thought to have extant populations.

Osage River: The spectaclecase was considered extirpated from the Osage River in the 2002 status review of the species (Butler 2002b, pp. 57–58). However, fresh dead shells were collected at three sites during a 2001 survey (Ecological Specialists, Inc. 2003, chapter 3, p. 12) and 8 live individuals were found at a site in the lower Osage River in 2010 (Roberts 2011, pers. comm.). The status of the species in the Osage River is unknown.

Sac River: The Sac River is a large tributary to the Osage River. The spectaclecase was considered extirpated in the 2002 status review of the species (Butler 2002b). However, three old, live individuals were collected at two sites during a survey of the Sac River in 2004 (Hutson and Barnhart 2004, p. 17). The same survey revealed ''numerous'' relic shells from six other sites, indicating that the spectaclecase may have been relatively abundant at one time. Prior to the 2004 survey, the spectaclecase had not been collected from this river since 1978 (Bruenderman 2001, pers. comm.). Given the age of the live individuals and the abundance of shell material, Hutson and Barnhart (2004, p. 17) predicted the species would ''soon be extirpated'' from the river.

Gasconade River: The Gasconade River is a southern tributary of the Missouri River in south-central Missouri and flows into the mainstem east of Jefferson City. When Stansbery (1970, p. 13) included this species in the first compiled list of imperiled mussels, he noted that ''the only population of substantial size presently known is found in the Gasconade River.'' In 1994, Buchanan found more than 1,000 individuals between RM 7 and 84 (Buchanan 1994, pp. 5, 8–13). Today, one of the three best spectaclecase populations remaining rangewide occurs in the Gasconade. The spectaclecase population occurs over approximately 200 miles (322 km) of the mainstem from RM 4.9 upstream (Bruenderman *et al.* 2001, p. 54). Baird (2000, pp. 61, 71) studied the demographics of the Gasconade River spectaclecase population in the late 1990s. Based on his limited number of sampling sites, this species comprised about 20 percent of the entire mussel fauna in this system. The mean estimated age of the population was 25 years. Individuals less than 10 years of age comprised 10.4 percent of the Gasconade population sampled (n = 2,111), indicating a significant level of recent recruitment.

Historically, Stansbery (1967, p. 29) noted that ''[t]he size of some aggregation[s] * * * is impressive,'' and that ''the number of individuals may reach a density of well over a dozen per square foot.'' Both statements are probably in reference to the Gasconade River, Missouri population, which he had described in the text of his note. Densities at the four sites Baird (2000, pp. 61, 71) intentionally selected for their large spectaclecase populations ranged from 0.03 to 0.06 per sq. ft (0.3 to 0.6 per sq. m); estimated population numbers at these selected sites ranged from 2,156 to 4,766. Baird (2000, p. 71) thought that conditions for spectaclecase recruitment in the Gasconade River had declined in the past 20 to 30 years, but the causes were undetermined.

Big Piney River: The Big Piney River, a southern tributary of the Gasconade River, harbors a small population of the spectaclecase. Although overlooked during a 1999 survey (Bruenderman *et al.* 2001, pp. 14, 28), 15 individuals were collected from the lower mainstem (RM 24) in 2004 (Barnhart *et al.* 2004, p. 5). The status of the population is unknown, but it is probably dependent on the much larger source population in the Gasconade River for sustainability (McMurray 2008, pers. comm.).

Osage Fork: The Osage Fork is a southwestern headwater tributary of the Gasconade River. The spectaclecase is known from the lower portion of this Gasconade River tributary, specifically from RM 13.9. Sampling in the Osage Fork in 1999 yielded 26 live individuals from this site (Bruenderman *et al.* 2001, p. 9). Relative abundance of the spectaclecase in the Osage Fork was 3.9 percent, and catch-per-unit effort was 1.3 per person-hour. This population is thought to be stable, but it may also be dependent on the much larger source population in the Gasconade River for long-term sustainability. The Gasconade River system, including the lower Big Piney, lower Osage Fork, and Gasconade mainstems, can be considered a single population cluster.

Ohio River System

The spectaclecase's continued existence in the Ohio River is extremely uncertain. Once known from five rivers, it has been extirpated from two, and two of the remaining three are recently represented by only one or two individuals each.

Ohio River: The Ohio River is the largest eastern tributary of the Mississippi River, with its confluence marking the divide between the upper and lower portions of the Mississippi River system. Historically, the spectaclecase was documented from the Ohio River from the vicinity of Cincinnati, Ohio, to its mouth. Although no specimens are known from the mainstem upstream of Cincinnati, populations are known from two upstream tributaries, the Muskingum and Kanawha Rivers. Nearly all spectaclecase records from the Ohio River were made around 1900 or before (Schuster 1988, p. 186). The only recent record is for a single live individual found in an abandoned gill net near the Illinois shore in 1994 (Cummings 2008a,

pers. comm.). If a population of the spectaclecase continues to occur in the Ohio River, its future persistence is extremely doubtful and continued existence seriously threatened by the exotic zebra mussel.

Kanawha River: The Kanawha River is a major southern tributary of the Ohio River that drains much of West Virginia. The spectaclecase was not known from this stream until 2002, when a single, very old, live individual was discovered near Glasgow, Kanawha County (Zimmerman 2002, pers. comm.). Another live individual was found in the same vicinity in 2005, as well as two additional weathered shells in 2006 (Clayton 2008a, pers. comm.). This site is approximately 20 miles (32.2 km) downstream of Kanawha Falls, below which is the only significant mussel bed known from the Kanawha River. It is doubtful that a recruiting spectaclecase population occurs in the Kanawha River due to the small number of individuals found and their advanced age.

Green River: The Green River is a lower Ohio River tributary in west-central Kentucky. The spectaclecase has been collected sparingly in the Green River. That it was not reported in early collections made in the system is indicative of the difficulty in finding specimens (Price 1900, pp. 75–79). Stansbery (1965, p. 13) was the first to find it in the mid-1960s at Munfordville, Hart County, where he reported 47 mussel species collected over a several-year period in the early 1960s. More recently, from 1987 to 1989, Cicerello and Hannan (1990, p. 20) reported single fresh dead specimens at six sites and relic specimens from an additional five sites in Mammoth Cave National Park (MCNP). A single specimen was recorded from MCNP, Edmonson County, in 1995. Sampling conducted from 1996 to 1998 located fresh dead specimens at two sites above MCNP, with a relic shell at a third site farther upstream (Cicerello 1999, pp. 17–18). At least one fresh dead specimen was reported from MCNP in 2001, as well as several live individuals in 2005 and 2006 (Layzer 2008a, pers. comm.).

A small spectaclecase population remains in the upper Green River from below Lock and Dam 5 upstream through MCNP, Edmonson County, into western Hart County. Most recent specimens have been reported from the upstream portion of this reach, where it is generally distributed from MCNP upstream to western Hart County. Its distribution is much more sporadic and localized in the lower portion of this reach due to the pooling effect of two locks and dams (5 and 6). In 2001, a concerted effort (approximately 15 person-hours) to locate rare mussels below Lock and Dam 5 and at other sites downstream failed to find spectaclecase (live or shell), although a fresh dead shell had been collected in this area in 1993 (Cicerello 2008, pers. comm.). The occurrence of variable-sized individuals in the 1990s indicates different year classes but not necessarily recent recruitment (Cicerello 2008, pers. comm.). The long-term sustainability of the Green River population, primarily limited to an approximately 15-mile (24-km) reach of the river, is therefore questionable, and its status is unknown.

Cumberland River System

With few exceptions, most records of the spectaclecase in the Cumberland River system were made before the 1920s. It was historically known from the mainstem and four tributaries but appears currently to be restricted to the lowermost Cumberland River a few miles above its confluence with the Ohio River.

Cumberland River mainstem: The Cumberland River is a large southern tributary of the lower Ohio River. The spectaclecase was considered ''not rare'' in the Cumberland River by Hinkley and Marsh (1885, p. 6), whereas it was found at six sites by Wilson and Clark (1914, pp. 17, 19) during their survey primarily for commercial species in the Cumberland River system. In a 1947–49 survey of the Kentucky portion of the upper Cumberland River, Neel and Allen (1964, p. 453) reported live specimens only from one of six mainstem sites that they sampled below Cumberland Falls. Neel and Allen (1964, p. 432) considered it to be ''uncommon'' in the lower Cumberland River (where they did not sample), a statement possibly based on its sporadic occurrence as reported by Wilson and Clark (1914, pp. 17, 19). One of the last mainstem records is that of a single live specimen found in the cold tailwaters of Wolf Creek Dam, Kentucky, near the Tennessee border in 1982 (Miller *et al.* 1984, p. 108). This was one of only two live mussels found during a survey of the dewatered river reach below the dam, the mussel community having been eliminated from decades of cold water releases. The most recent record is of a single live individual found at RM 10 in Kentucky below Barkley Lock and Dam in 2008 (Fortenbery 2008, p. 9). A thorough search of the area yielded no additional individuals.

Tennessee River System

The spectaclecase was originally known from the Tennessee River and nine of its stream systems. Ortmann (1924, p. 60) reported that the spectaclecase was ''frequent * * * in the upper Tennessee,'' while acknowledging in an earlier paper (Ortmann 1918, p. 527) that it was locally abundant in parts of the upper Tennessee River system, but noted that it was ''generally regarded as a rare species'' rangewide.

Hundreds of miles of large river habitat on the Tennessee mainstem have been converted under nine reservoirs, with additional dams constructed in tributaries historically harboring this species (for example, Clinch, Holston, and Elk Rivers). Watters (2000, p. 262) summarizes the tremendous loss of mussel species from various reaches of the Tennessee. The spectaclecase is now known only from the Tennessee mainstem and three of its tributaries. Despite this fact, the Tennessee River system continues to represent one of the last strongholds of the spectaclecase rangewide.

Tennessee River mainstem: The Tennessee River is the largest tributary of the Ohio River, draining portions of seven states. The 53-mile (85-km) stretch of river in northwestern Alabama collectively referred to as the Muscle Shoals historically harbored 69 species of mussels, making it among the most diverse mussel faunas ever known (Garner and McGregor 2001, p. 155). The historical spectaclecase population in this reach was thought to be phenomenal given the amount of historical habitat that was available and literature accounts of the period. Hinkley (1906, p. 54), in 1904, considered the spectaclecase ''plentiful,'' noting 200 individuals under a single slab boulder. Twenty years later, Ortmann (1925, p. 327) stated that ''this species must be, or have been, abundant'' at Muscle Shoals based on the ''considerable number of dead shells'' he observed. In these quotes he predicted the demise of the spectaclecase. The construction of three dams (Wilson in 1925, Wheeler in 1930, Pickwick Landing in 1940) inundated most of the historical habitat, leaving only small habitat remnants (Garner and McGregor 2001, p. 155). The largest remnant habitat remaining is the Wilson Dam tailwaters, a reach adjacent to and downstream from Florence, Alabama.

With the exception of 1976–78 when it was ''collected infrequently'' from below Wilson Dam (Gooch *et al.* 1979, p. 90), no collections of the spectaclecase were reported at Muscle Shoals from 1931 to 1995 despite surveys conducted in 1956–57, 1963–64, and 1991 (Garner and McGregor 2001, p. 156).

Elsewhere along the Tennessee mainstem, a specimen was recently

reported from the Guntersville Dam tailwaters in northern Alabama (Butler 2002b, p. 17). From 1997–99, Ohio State University Museum (OSUM) records reflect that 10 live, 1 fresh dead, and 4 relic spectaclecase were reported from three sites in this river reach. The species is found only occasionally in the lower Tennessee River below Pickwick Landing Dam in southeastern Tennessee, having been unreported in various surveys (for example, Scruggs 1960, p. 12; van der Schalie 1939, p. 456). Yokley (1972, p. 61) considered it rare, having only found fresh dead specimens in his 3-year study. Hubbs and Jones (2000, p. 28) reported two live specimens found in 1998 at RM 170, Hardin County. The current status of these small populations is unknown (Garner 2008, pers. comm.; Hubbs 2008, pers. comm.).

Nolichucky River: The Nolichucky River is a tributary of the lower French Broad River, in the upper Tennessee River system in North Carolina and Tennessee. The spectaclecase population in this river was once sizable, judging from museum lots (for example, 23 fresh dead, OSUM 1971:0372). Sampling at 41 Nolichucky River sites in 1980, Ahlstedt (1991, pp. 136–137) reported 8 live spectaclecase from 6 sites between RM 11.4 to 31.9. A small population of the spectaclecase also persists in a relatively short reach of the lower river (Ahlstedt 2008, pers. comm.). The current status of the Nolichucky River population is unknown.

Clinch River: The Clinch River is a major tributary of the upper Tennessee River in southwestern Virginia and northeastern Tennessee. Böpple and Coker (1912, p. 9) noted numerous spectaclecase shells in muskrat middens in a portion of the Clinch that is now inundated by Norris Reservoir. Ortmann (1918, p. 527) reported the spectaclecase as being locally abundant in the lower Clinch River, again in an area mostly flooded by Norris Reservoir. Oddly, he failed to find this species upstream of Claiborne County, yet, in later years, one of the spectaclecase's largest known populations was identified in this reach. The species was locally common at sites in the upper Clinch River, according to OSUM records from the 1960s. Ahlstedt (1991, p. 98) considered this species to be relatively rare in the Clinch River based on survey work conducted during 1978 to 1983. He recorded 78 live specimens from 22 sites between RM 151 and 223, for an average of 3.5 per site. The spectaclecase population reported by Ahlstedt (1991a, pp. 89–90) from the lower Clinch River between Melton Hill and Norris Dam (11 specimens from 4 sites between RM 45 and 73) was considered to be small but stable. Once considered abundant in the Clinch River at Speers Ferry, Scott County, Virginia (Bates and Dennis 1978, pp. 18–19), the species is now extremely rare at this site (Neves 1991, p. 264).

Currently, the species is locally common in the Tennessee River system only in the upper Clinch River, and populations are primarily restricted to the Tennessee portion of that stream. Low numbers (0.02 per sq. ft (0.2 per sq. m)) were detected in quantitative sampling (428; 2.7 sq. ft (0.25 sq. m) quadrats) in 1994 (Ahlstedt and Tuberville 1997, pp. 73, 81). Three individuals were collected at RM 223.6 in Virginia in 2005 and a few more live spectaclecase were found in 2010 (Watson 2011, pers. comm.). One old individual was collected in 2007 at RM 270.8, representing the farthest upstream record for the species (Eckert 2008, pers. comm.). The upper Clinch River population is considered to be reproducing, with fairly young individuals occasionally found, but overall the population appears to be declining (Ahlstedt 2008, pers. comm.). The recent occurrence of a disjunct population in the lower Clinch River (separated from the upper Clinch River population by Norris Reservoir) was recently verified (Fraley 2008a, pers. comm.). The specimens sampled likely recruited since the Norris Dam gates closed in 1936 (Fraley 2008a, pers. comm.), despite the cold tailwaters that destroyed the majority of the mussel fauna in this once incredibly diverse river reach.

Duck River: The Duck River is wholly in Tennessee and represents the farthest downstream significant tributary of the Tennessee River, joining it in the headwaters of Kentucky Reservoir. A single spectaclecase, representing a new drainage record, was found live in the lower Duck River, Hickman County, in 1999 (Hubbs 1999, p. 1; Powell 2008, pers. comm.). Since then, at least one live and one fresh dead individual from the lower part of the river in Humphreys County have been documented (Ahlstedt *et al.* 2004, pp. 14–15; Schilling and Williams 2002, p. 410), and several relic specimens have been reported farther upstream (Hubbs 2008, pers. comm.; Powell 2008, pers. comm.). These records cover an approximately 20-mile (32-km) reach of river, with the live individual reported from the lower end of this reach. The spectaclecase is considered extremely rare in the Duck River, and its status is unknown.

Lower Mississippi River System

The spectaclecase was apparently never widely distributed in the lower Mississippi River system. Records from only two streams are known, both from Arkansas.

Mulberry River: The Mulberry River is a tributary of the Arkansas River in northwestern Arkansas. Other than the Ouachita River records, the only other record of the spectaclecase in the lower Mississippi River system is a single specimen found in the mid-1990s in the Mulberry River. There is some uncertainty regarding the validity of this record, as the collectors were not experienced malacologists, and no specimen or photograph is available to substantiate the record. This record is, however, accepted as valid (Harris *et al.* 2009, p. 67; Harris 2010, pers. comm.). The status of the spectaclecase in the Mulberry River is unknown.

Ouachita River: The Ouachita River flows into lower Red River, a major western tributary of the lower Mississippi River, draining portions of Arkansas and Louisiana. This species was first reported in this portion of its range from the Ouachita River, southwestern Arkansas, in the early 1900s (Wheeler 1918, p. 121). Spectaclecase records in the Ouachita span a three-county reach of river. Only two live specimens were found in the mid-1990s, both in the lower portion of Ouachita County. A single relic shell (paired valves) was found in Montgomery County, at the upper end of its Ouachita River range in 2000. The population is considered very small and declining (Harris *et al.* 2009, p. 67; Harris 2010, pers. comm.).

Summary of Extant Spectaclecase Populations

The spectaclecase appears to be declining rangewide, with the exception of a few significant populations. Its occurrence in the St. Croix, Meramec, Gasconade, and Clinch Rivers represent the only sizable, sustainable, and reproducing populations remaining, although the Clinch River population appears to be in decline. The spectaclecase has been eliminated from three-fifths of the total number of streams from which it was historically known (20 streams currently compared to 44 streams historically). This species has also been eliminated from long reaches of former habitat in thousands of miles of the Illinois, Ohio, Cumberland, and other rivers, and from long reaches of the Mississippi and Tennessee Rivers. In addition, the species is no longer known from the States of Ohio, Indiana, and Kansas. The

extirpation of this species from numerous streams and stream reaches within its historical range signifies that substantial population losses have occurred.

Sheepnose Historical Range and Distribution

Historically, the sheepnose occurred in the Mississippi, Ohio, Cumberland, and Tennessee River systems and their tributaries, totaling at least 76 streams (including 1 canal) (Butler 2002a, pp. 6–7). Its distribution comprised portions of 14 States (Alabama, Illinois, Indiana, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin). Historical occurrences by stream system (with tributaries) include the following:

- Upper Mississippi River system (Mississippi River (Minnesota, St. Croix, Chippewa (Flambeau River), Wisconsin, Rock, Iowa, Des Moines, Illinois (Des Plaines, Kankakee, Fox, Mackinaw, Spoon, Sangamon (Salt Creek) Rivers; Quiver Creek; Illinois and Michigan Canal), Meramec (Bourbeuse, Big Rivers), Kaskaskia, Saline, Castor, Whitewater Rivers));
- Lower Missouri River system (Little Sioux, Little Blue, Gasconade (Osage Fork) Rivers);
- Ohio River system (Ohio River (Allegheny), Monongahela, Beaver, Duck Creek, Muskingum (Tuscarawas, Walhonding (Mohican River), Otter Fork Licking Rivers), Kanawha, Scioto, Little Miami, Licking, Kentucky, Salt, Green (Barren River), Wabash (Mississinewa, Eel, Tippecanoe, Vermillion, Embarras, White (East, West Forks White River) Rivers) Rivers);
- Cumberland River system (Cumberland River (Obey, Harpeth Rivers; Caney Fork));
- Tennessee River system (Tennessee River (Holston (North Fork Holston River), French Broad (Little Pigeon River), Little Tennessee, Clinch (North Fork Clinch, Powell Rivers), Hiwassee, Duck Rivers)); and
- Lower Mississippi River system (Hatchie, Yazoo (Big Sunflower River), Big Black Rivers).

Sheepnose Current Range and Distribution

Extant populations of the sheepnose are known from 25 rivers in all 14 States of historical occurrence. Current populations occur in the following systems (with tributaries):

- Upper Mississippi River system (Mississippi River (Chippewa (Flambeau River), Wisconsin, Rock, Kankakee, Meramec (Bourbeuse River) Rivers));
- Lower Missouri River system (Osage Fork Gasconade River);
- Ohio River system (Ohio River (Allegheny, Muskingum (Walhonding River), Kanawha, Licking, Kentucky, Tippecanoe, Eel, Green Rivers));
- Tennessee River system (Tennessee River (Holston, Clinch, Duck (Powell River) Rivers)); and
- Lower Mississippi River system (Big Sunflower River).

The 25 extant sheepnose populations occur in the following 14 States (with streams):

- Alabama (Tennessee River),
- Illinois (Mississippi, Kankakee, Ohio, Rock Rivers),
- Indiana (Ohio, Tippecanoe, Eel Rivers),
- Iowa (Mississippi River),
- Kentucky (Ohio, Licking, Kentucky, Green Rivers),
- Minnesota (Mississippi River),
- Mississippi (Big Sunflower River),
- Missouri (Mississippi, Meramec, Bourbeuse, Osage Fork Gasconade Rivers),
- Ohio (Ohio, Muskingum, Walhonding Rivers),
- Pennsylvania (Allegheny River),
- Tennessee (Tennessee, Holston, Clinch, Powell, Duck Rivers),
- Virginia (Clinch, Powell Rivers),
- West Virginia (Ohio, Kanawha Rivers), and
- Wisconsin (Mississippi, Chippewa, Flambeau, Wisconsin Rivers).

The sheepnose was last observed from over two dozen streams decades ago (for example, Minnesota, Rock, Iowa, Illinois, Des Plaines, Fox, Mackinaw, Spoon, Castor, Little Sioux, Little Blue, Monongahela, Beaver, Scioto, Little Miami, Salt, Mississenewa, Vermilion, Embarras, White, Obey, Harpeth, North Fork Holston, French Broad, North Fork Clinch Rivers; Caney Fork). According to Parmalee and Bogan (1998, p. 177) and Neves (1991, pp. 280–281), the sheepnose has been extirpated throughout much of its former range or reduced to isolated populations. The only records known from some streams are archeological specimens (for example, Little Pigeon, Big Black, Yazoo, Saline Rivers).

Sheepnose Population Estimates and Status

The sheepnose has been eliminated from two-thirds of the total number of streams from which it was historically known (25 streams currently occupied compared to 77 streams historically) (Table 2). This species has also been eliminated from long reaches of former habitat including thousands of miles of the Mississippi, Wisconsin, Illinois, Ohio, Cumberland, and Tennessee Rivers and dozens of other streams and stream reaches.

Based on the population designation criteria (see *Species Distribution* section, above), of the 25 sheepnose populations that are considered extant, 9 are thought to be stable and 8 are considered declining (Table 2). Six other populations (Walhonding, Rock, Gasconade, Muskingum, Osage Fork, and Duck Rivers) are considered extant, but the status of these populations is unknown.

TABLE 2—SHEEPNOSE STATUS AT HISTORICAL LOCATIONS

River Basin	Stream	Current status	Date of last live or fresh dead observation	Comments
Upper Mississippi River	Mississippi River	Declining	2010.	
	Minnesota River	Extirpated	~1944.	
	St. Croix River	Extirpated	1988.	
	Chippewa/Flambeau River	Stable	2008.	
	Wisconsin River	Declining	2007.	
	Rock River	Unknown	2007	Represented by single specimen presumably near extirpation.
	Iowa River	Extirpated	1985	Relic shell collected in 2011.
	Des Moines River	Extirpated	~1915.	
	Illinois River	Extirpated	1940	Relic shell collected in 1999.
	Des Plaines River	Extirpated	~1970.	
	Kankakee River	Stable	2007.	

TABLE 2—SHEEPNOSE STATUS AT HISTORICAL LOCATIONS—Continued

River Basin	Stream	Current status	Date of last live or fresh dead observation	Comments
	Fox River	Extirpated	~1913.	
	Mackinaw River	Extirpated	~1970.	
	Spoon River	Extirpated	1929.	
	Sangamon River	Extirpated	~1919	Relic shell collected in 1989.
	Salt Creek	Extirpated	Unknown	Relic shell collected in 2007.
	Quiver Creek	Extirpated	1881.	
	Illinois and Michigan (I and M) Canal.	Extirpated	?	
	Meramec River	Stable	2011.	
	Bourbeuse River	Declining	2006.	
	Big River	Extirpated	1978.	
	Kaskaskia River	Extirpated	1970.	
	Saline River	Extirpated	?	
	Castor River	Extirpated	~1965.	
	Whitewater River	Extirpated	1970s.	
Lower Missouri River	Little Sioux River	Extirpated	1916.	
	Little Blue River	Extirpated	~1915.	
	Gasconade River	Unknown	~1965.	
	Osage Fork Gasconade River	Unknown	1999	Represented by single specimen, presumably near extirpation.
Ohio River	Ohio River	Stable	2007.	
	Allegheny River	Improving	2008.	
	Monongahela River	Extirpated	~1897.	
	Beaver River	Extirpated	~1910.	
	Duck Creek	Extirpated	1930.	
	Muskingum River	Unknown	1993.	
	Tuscarawas River	Extirpated	Unknown	Relic shell collected in 1998.
	Walhonding River	Unknown	1993.	
	Mohican River	Extirpated	1977.	
	Otter Fork Licking River	Extirpated	1973.	
	Kanawha River	Stable	2005.	
	Scioto River	Extirpated	1963.	
	Little Miami River	Extirpated	~1953.	
	Licking River	Declining	2007.	
	Kentucky River	Declining	1996.	
	Salt River	Extirpated	~1900.	
	Green River	Improving	2007.	
	Barren River	Extirpated	Unknown	Relic shell collected in 1993.
	Wabash River	Extirpated	1988.	
	Mississinewa River	Extirpated	1899.	
	Eel River	Declining	1997.	
	Tippecanoe River	Stable	2009.	
	Vermillion River	Extirpated	Unknown.	
	Embarras River	Extirpated	1953.	
	White River	Extirpated	1913.	
	East White River	Extirpated	1969.	
	West Fork White River	Extirpated	1908	Relic shell collected in 2000.
Cumberland River	Cumberland River	Extirpated	1987.	
	Obey River	Extirpated	1939.	
	Harpeth River	Extirpated	?	
	Caney Fork River	Extirpated	Unknown	Relic shell collected in 1990.
Tennessee River	Tennessee River	Stable	2008.	
	Holston River	Declining	2007.	
	North Fork Holston River	Extirpated	1913.	
	French Broad River	Extirpated	1914.	
	Little Pigeon River	Extirpated	Unknown.	
	Little Tennessee River	Extirpated	Unknown	Relic shell collected in 1971.
	Clinch River	Stable	2006.	
	North Fork Clinch River	Extirpated	~1921.	
	Powell River	Stable	2004.	
	Hiwassee	Extirpated	Unknown	Relic shell collected in 1975.
	Duck River	Unknown	2003	Record represented by single specimen.
Lower Mississippi River	Hatchie River	Extirpated	1983.	
	Yazoo River	Extirpated	Unknown.	
	Big Sunflower River	Declining	2000.	
	Big Black River	Extirpated	Unknown.	

Historically, the sheepnose was fairly widespread in many Mississippi River system streams, although rarely common. Archaeological evidence on relative abundance indicates that it has been an uncommon or even rare species in many streams for centuries (Morrison 1942, p. 357; Patch 1976, pp. 44–52; Parmalee *et al.* 1980, p. 101; Parmalee *et al.* 1982, p. 82; Parmalee and Bogan 1986, pp. 28, 30; Parmalee and Hughes 1994, pp. 25–26), and relatively common in only a few (Bogan 1990, p. 135).

Museum collections of this species are almost always few in number (Cummings 2010, pers. comm.), with the exception of the 1960s collections from the Clinch and Powell Rivers, Tennessee and Virginia. Moderate numbers of individuals were also commonly recorded historically from the upper Muskingum River system in Ohio and the lower Wabash River in Indiana and Ohio, based on museum lots. Williams and Schuster (1989, p. 21) reported the species as being not common in the Ohio River, while Cummings and Mayer (1992, p. 50) considered it rare throughout its range. The American Malacological Union considers the sheepnose to be threatened (Williams *et al.* 1993, p. 13).

Some known populations of the sheepnose are represented by the collection of a single specimen. Other populations have seen a dramatic range decline (for example, reduced from several hundred river miles to a single bed of a river system) or we have limited recent information on population status. The following summaries focus primarily on those populations for which we have sufficient information to make status and trend determinations, and less on those populations that are nearly extirpated, have no recruitment, or are of unknown status.

Upper Mississippi River System

Judging from the archeological record, the sheepnose may have been common at some sites on the Mississippi River (Bogan 1990, p. 135) but over the past century it has become a rare species throughout the mainstem (Grier 1922, pp. 13–31; van der Schalie and van der Schalie 1950, pp. 454–457). Robust populations may have been found in some tributary rivers. The sheepnose has been extirpated from seven Mississippi River tributaries (Minnesota, Iowa, Des Moines, Kaskaskia, Saline, Castor, and Whitewater Rivers) and all but one Illinois River tributary (the Kankakee River). Today, the sheepnose is extant (though in low numbers) in ten mainstem pools, and six tributary rivers of the Upper Mississippi River System.

Mississippi River mainstem: Sheepnose populations in the mainstem of the Upper Mississippi River are declining. Despite the discovery of a juvenile in Mississippi River Pool (MRP) 7 in 2001, recruitment is limited at best. The mainstem population comprises a few old individuals spread across a very large geographic range (MRP 4 through MRP 24, a distance of more than 530 river miles (850 river km)) (Thiel 1981, p. 10; Havlik and Marking 1981, p. 32; Whitney *et al.* 1996, p. 17; Helms and Associates, Ecological Specialists, Inc. 2008, p. 16). The status of this species in the Mississippi River is highly vulnerable (Butler 2002a, p. 7).

Pools with extant populations include MRP 4 (2008), MRP 5 (2008), MRP 7 (2001), MRP 11 (2007), MRP 14 (2006–07), MRP 15 (2005–06), MRP 16 (2003), MRP 17 (2010), MRP 20 (1992), and MRP 24 (1999). The 2001 MRP 7 record was for a live juvenile 1.3 inches (3.3 cm) long and estimated to be 3 years old (Davis 2008, pers. comm.).

St. Croix River: The St. Croix River population is isolated and composed of old individuals with little to no recruitment (Heath 2010b, pers. comm.). Currently, the population is thought to be restricted to the lowermost mainstem below RM 1 in Washington County, Minnesota, and Pierce County, Wisconsin (Heath 2010b, pers. comm.). Three live individuals were collected in 1988, during a mussel relocation project for the U.S. Highway 10 bridge immediately upstream of the confluence with the Mississippi River (Heath 1989, p. 16). Hornbach (2001, p. 218) analyzed mussel collections throughout the St. Croix River and found that the sheepnose was absent in 15 of the 16 river reaches he sampled, only noting the 1988 occurrence. One historical occurrence is known from the vicinity of RM 53 in 1930; however, this is the only known record upstream of RM 1 (Heath 2010b, pers. comm.). Because there have been no recent collections in the St. Croix River since 1988, this population is most likely extirpated.

Chippewa/Flambeau River: The sheepnose population in the Chippewa River is extant in much of the river system including the lower end of its tributary, the Flambeau River. This population is stable with documented recruitment (Butler 2002a, p. 8). Balding and Balding (1996, p. 5) reported 50 live specimens sampled from 1989 through 1994, but more recent collections have expanded sites of occurrence to 20 of 67 sites in the middle and upper portions of the Chippewa River, with a relative abundance of 0.8 percent (Balding 2001, pers. comm.). Balding (1992, p. 166) found 12 live specimens and 31 dead shells from 5 of 37 sites in the lower river. Additional survey work extended the number of sites where it was found live to 10 of 45 (Balding 2001, pers. comm.). The Chippewa River sheepnose population is considered one of the best known extant populations. The Flambeau River supports a small sheepnose population below its lowest dam and near its confluence with the Chippewa River (lower 8 miles (13 km) of river), and is most likely dependent on the source population in the Chippewa River.

Wisconsin River: The sheepnose is declining in the Wisconsin River. Historical records for the sheepnose are available throughout the lower 335 miles (539 km) of the 420-mile (676-km) Wisconsin River (Heath 2010c, pers. comm.). In July 2002, researchers found 20 live specimens in a dense mussel bed near Port Andrew (Seitman 2011, pers. comm.). Currently, the sheepnose is primarily confined to RM 133.7 downstream (a reduction of over 201 river miles (232 km)). The sheepnose population is probably recruiting in the river, primarily in the lower section (below RM 82) (Heath 2010c, pers. comm.). It is unknown if the middle river population, from RM 93 to 133.7, is recruiting because only three living individuals have been found in recent years (Heath 2010c, pers. comm.).

Rock River: The Rock River population is represented by a single sheepnose specimen and is near extirpation. This individual was located in 2007 south of Como, Illinois (Tiemann 2011, pers. comm.; Cummings 2010a, pers. comm.). Although there have been several relict shells found in the Rock River since 1990, the 2007 collection is the only known live collection in the past 50 years.

Kankakee River: The sheepnose once occurred along the lower two-thirds of the Kankakee River, an Upper Illinois River tributary, in Indiana and Illinois (Wilson and Clark 1912, p. 47; Lewis and Brice 1980, p. 4). The sheepnose has been extirpated from the channelized portion of the Kankakee in Indiana but persists in the Illinois portion of the river where it appears stable, with evidence of recent recruitment (Butler 2002a, p. 9). Records since 1986 identify the sheepnose in the Kankakee River from the Iroquois River confluence downstream approximately 30 river miles (48 km) (Cummings 2010b, pers. comm.; Helms and Associates 2005, p. 3). A mussel relocation effort for a pipeline crossing in the Kankakee River in July 2002

found 11 sheepnose individuals, representing 0.32 percent of the total mussels relocated (Helms 2004, p. D–1). Subsequent monitoring of the site in 2004 and 2007 located four new individuals. One individual collected in 2004 measured 1.6 inches (40 mm) and was estimated to be a juvenile of 3 years of age. No sheepnose were found in a 2011 search of this area (Roe 2011, pers. comm.).

Meramec River: The Meramec River flows into the Mississippi River downstream of St. Louis and drains east-central Missouri. The Meramec sheepnose population is stable and recruiting, and represents one of the best rangewide (Butler 2002a, p. 9). Two studies (Buchanan 1980, p. 4; Roberts and Bruenderman 2000, p. 20) extensively surveyed the mussel fauna of the Meramec River. The most notable difference in the results of these studies was the reduced range in which sheepnose were found. Buchanan (1980, p. 34) found live or fresh dead individuals from RM 4.5 to 145.7 (141.2 river miles (227.2 km)), whereas Roberts and Bruenderman (2000, p. 20) found live or fresh dead individuals from RM 25.6 to 91.3 (65.7 river miles (105.7 km)). The trend data from the late 1970s to 1997 indicate that the sheepnose declined 75.5 river miles (121.5 km) in total range within the Meramec River. The extent of the population in the lower end appears to be shrinking upriver (Butler 2002a, p. 10).

In 2002, a site associated with a railroad crossing in St. Louis County at RM 28 yielded 43 live specimens over 3 days of sampling, including at least one gravid female (Roberts 2008a, pers. comm.). Collectively, these data reinforce the level of importance of the Meramec population for the sheepnose rangewide. Although the existing population has been described as stable and recruitment has been documented in the system (Butler 2002a, pp. 11–12), the population has shrunk by half of its former geographic range over the past 30 years.

Bourbeuse River: The Bourbeuse River sheepnose population is distributed in the downstream 90 river miles (145 km) of the river (Buchanan 1980, p. 34), but is considered rare. Although recruitment has been documented in the Bourbeuse River, the sheepnose population is considered declining (Roberts and Bruenderman 2000, p. 130; Roberts 2008b, pers. comm.). In the late 1970s, Buchanan (1980, p. 10) found the sheepnose to represent 0.1 percent of the Bourbeuse River mussel fauna, with 10 live specimens sampled from 7 sites. Based on data collected by Buchanan (1980, p. 34) and additional survey work in 1980, live or fresh-dead individuals were found in the Bourbeuse from RM 6.5 to 90.0. Data from a resurvey of the Bourbeuse River collected in 1997 yielded nine live sheepnose from four sites (Roberts and Bruenderman 2000, p. 39), and fresh dead shells were located at an additional site. Sheepnose relative abundance was 0.4 percent. Live or fresh dead sheepnose were found between RM 1.4 to 66.3. This comparison indicates a decrease in the number of extant sites (7 to 4) and a range contraction of 18 river miles (29 km). The sheepnose in the Meramec and Bourbeuse Rivers represents a population cluster.

Lower Missouri River System

Osage Fork Gasconade River: The Lower Missouri River system population is represented by a single sheepnose specimen and is near extirpation. This individual was located in 1999 at RM 21.2 in the Osage Fork, a tributary to the Gasconade River (Bruenderman *et al.* 2001, p. 14). It is the only known record for sheepnose in the Gasconade River drainage for more than 25 years.

Ohio River System

Historically, the sheepnose was documented from the entire length of the Ohio River (its type locality), and was first collected there in the early 1800s. Ohio River sampling of 664 river miles (1,068 km) along the northern border of Kentucky yielded 41 sheepnose (Williams 1969, p. 58). Most of these (29) were found in the upper portions of the river (from RM 317 to 538), but the population extended downstream to RM 871. Relative abundance was 0.7 percent for the entire reach sampled. Currently, the mainstem Ohio River and 10 tributary streams have extant sheepnose populations.

Ohio River mainstem: The sheepnose is generally distributed, but rare, in most mainstem pools of the Ohio River. The population appears to be more abundant in the lower section of the river with a smaller population in the upper Ohio River pools (Williams and Schuster 1989, p. 24; Zeto *et al.* 1987, p. 184). Long-term monitoring data from 1993 to 2007 at RM 176 shows the sheepnose is usually collected each survey, recruitment is occurring, and the species comprises 1.0 percent of the mussels at the site (relative abundance) (Morrison 2008, pers. comm.). Live sheepnose have also been collected in recent years at RM 725 and RM 300 (Morrison 2008, pers. comm.). The population in the lower Ohio River mainstem is viable with documented recruitment, but the population overall continues to show signs of decline (Butler 2002a, p. 12).

Allegheny River: The Allegheny River drains northwestern Pennsylvania and western New York and joins the Monongahela River at Pittsburgh to form the Ohio River. Historical populations of sheepnose were located in the Allegheny in the sections of the river that are now Pools 5–8 (Urban pers. comm. 2011). In their surveys conducted from 2005–07, Smith and Meyer (2010, p 558), found no sheepnose in Pools 4–7. All of these populations have been extirpated leaving only the population in the middle Allegheny located above Pool 9 and below the Kinzua Dam (Urban 2011, pers. comm.). This remaining population has shown recent recruitment and is considered improving (Villella 2008, pers. comm.). Sampling efforts from 2006–08 at 63 sites over 78 miles (125 km) of river produced sheepnose at 18 sites. A total of 244 individuals of 7 different age classes were collected (Villella 2008, pers. comm.) providing ample evidence of recent recruitment.

Kanawha River: The Kanawha River is a major southern tributary of the Ohio River draining much of West Virginia and with headwaters in Virginia and North Carolina. The Kanawha River harbors a small, but recruiting and stable, population of sheepnose in Fayette County, West Virginia (Butler 2002a, p. 14). The Kanawha population appears to be limited to 5 river miles (8 km) immediately below Kanawha Falls (Clayton 2008b, pers. comm.). Sheepnose collections from this reach in 1987 resulted in a density of 0.013 per sq. m (0.140 per sq. ft), and collections from 2005 found a density of 0.016 per sq. m (0.172 per sq. ft) (Clayton 2008b, pers. comm.).

Licking River: The sheepnose is known from the lower half of the Licking River, a southern tributary of the Ohio River in northeastern Kentucky. Currently, the species is known from roughly five sites in the middle Licking River (McGregor 2008, pers. comm.). There is no documented evidence of recent recruitment, and, therefore, the sustainability of the population is unknown. It is possible this population represents a population cluster with the Ohio River.

Green River: The Green River is a lower Ohio River tributary in west-central Kentucky. Currently, a recruiting and improving population remains over an approximately 25 river mile (40 km) reach in the upper Green River from the vicinity of Mammoth Cave National Park upstream into Hart County (Butler 2002a, p. 15). An investigation of

muskrat middens from 2002 and 2003 revealed 42 sheepnose shells, with 39 of the 42 between 1.2 and 2.2 inches (3.0 and 5.6 cm) in length and described as juveniles (Layzer 2008b, pers. comm.). Sampling over the past several years (2005–07) has documented a number of beds experiencing recruitment (McGregor 2008, pers. comm.).

Tippecanoe River: The Tippecanoe River drains the central portion of northern Indiana in the upper Wabash River system. This population of sheepnose is considered stable with relatively recent recruitment (Butler 2002a, p. 17). Survey work between 1987 and 1995 documented sheepnose at 14 sites throughout the river and extended the known range of the species upstream into Marshall County (Butler 2002a, p. 17). The sheepnose is now known from 45 miles (72 km) of the Tippecanoe River (Ecological Specialists, Inc. 1993, pp. 80–81; Cummings and Berlocher 1990, pp. 84, 98; Cummings 2008b, pers. comm.; Fisher 2008, pers. comm.).

Kentucky, Eel, Muskingum, and Walhonding Rivers: In addition to the aforementioned populations, sheepnose in the Ohio River system are known from the Kentucky and Eel Rivers, which are each represented by two or fewer specimens collected in the past 25 years. A population cluster in two additional rivers, the Muskingum River and its tributary, the Walhonding River, have unknown populations. Although Watters and Dunn (1995, p. 240) documented recruitment in the lower Muskingum River in the mid-1980s, the sheepnose population in the river is extremely small, and distribution has been reduced to only the lower portion of the river where six individuals were collected in 1992 (Watters and Dunn 1995, pp. 253–254). Populations of the sheepnose in these three river systems are considered to be declining and may be nearing extirpation (Butler 2002a, pp. 15–16).

Cumberland River System

Historical sheepnose records in the system are known from throughout the mainstem downstream of Cumberland Falls and three of its tributaries (Obey and Harpeth Rivers and Caney Fork). Wilson and Clark (1914, pp. 15–19, 57) reported the species to be generally uncommon from 14 mainstem sites from what is now Cumberland Reservoir, Kentucky, downstream to Stewart County, Tennessee, a distance of nearly 500 miles (805 km). The sheepnose was last documented in the Tennessee portion of the river during the early 1980s (Butler 2002a, p. 67).

The only recent sheepnose record for the Cumberland River is from 1987, at the extreme lower end of the river in Kentucky near its confluence with the Ohio River, below Barkley Dam (Butler 2002a, p. 18). This population may be influenced by the lower Ohio River sheepnose population (Butler 2002a, p. 18) and represents a population cluster. Surveys conducted in 2007–09 in the Tennessee reach of the river found no sheepnose (Hubbs, 2010, pers. comm.), and so this population may be extirpated.

Tennessee River System

The sheepnose was originally known from the Tennessee River and 10 of its tributary streams. Historically, Ortmann (1925, p. 328) considered the sheepnose to occur ''sparingly'' in the lower Tennessee River, and to be ''rare'' in the upper part of the system (Ortmann 1918, p. 545). Hundreds of miles of large river habitat on the Tennessee River mainstem have been converted under nine reservoirs, with additional dams constructed in tributaries historically harboring the sheepnose (for example, Clinch, Holston, Little Tennessee, Hiwassee Rivers) (Tennessee Valley Authority 1971, p. 5). Sheepnose populations currently persist in limited reaches of the Tennessee River mainstem and four tributaries.

Tennessee River mainstem: The 53-mile (85-km) stretch of river in northwestern Alabama referred to as the Muscle Shoals historically harbored 69 species of mussels, making it the most diverse mussel fauna ever known (Garner and McGregor 2001, pp. 155–157). However, with the construction of three dams (Wilson in 1925, Wheeler in 1930, and Pickwick Landing in 1940) most of the historical habitat was inundated, leaving only small, flowing habitat remnants (Garner and McGregor 2001, p. 158).

The species is found only occasionally in the lower Tennessee River below Pickwick Landing Dam in southwestern Tennessee. Scruggs (1960, p. 11) recorded a relative abundance of 0.2 percent, while Yokley (1972, p. 64) considered it to be ''very rare'' in this reach (relative abundance of 0.1 percent). Yokley reported only two specimens that were each estimated to be 20 or more years old.

The sheepnose persists in the tailwaters of Guntersville, Wilson, Pickwick Landing, and Kentucky Dams on the mainstem Tennessee River, where it is considered uncommon (Garner and McGregor 2001, p. 165; Gooch *et al.* 1979, p. 9). These populations are considered stable overall but with very limited recruitment (Garner and McGregor 2001, p. 165; McGregor 2008, pers. comm.). The species has been found in low numbers over the past 80 years from relic habitat in the Wilson Dam tailwaters, a several-mile reach adjacent to and downstream from Florence, Alabama (Butler 2002a, pp. 20–21).

Holston River: In July 2002, sampling in the Holston River produced live sheepnose at 16 of 20 sites sampled below the Cherokee Dam. This reach extended from Nance Ferry to Monday Island (RM 14.6), Jefferson and Knox Counties (Fraley 2008b, pers. comm.). A total of 206 specimens was found with an overall relative abundance of 18.2 percent among the 18 species reported live from this reach. The collection comprised extremely old individuals with no recently recruited individuals being found. Although the population appeared significant in numbers, the lack of recruitment in this population is indicative of a remnant population on its way to extirpation (Butler 2002a, p. 19). In 2007, Tennessee Valley Authority biologists located sheepnose in the Holston River while conducting fish surveys; however, no additional mussel survey work has been completed in the area since 2002 (Baxter 2010, pers. comm.).

Clinch River: The Clinch River in southwestern Virginia and northeastern Tennessee is one of the largest and most significant tributaries of the upper Tennessee River system. Based on archeological evidence, the sheepnose was ''extremely rare'' in the lower Clinch River (Parmalee and Bogan 1986, p. 28). As of 2002, the largest lots of museum material available for the sheepnose had been from the Clinch River and its tributary, the Powell River (Watters 2010a, pers. comm.). Individual Clinch River museum lots collected during 1963 to 1969 include 36, 39, 70, and 82 fresh dead specimens. The sheepnose population in the Clinch River currently occurs over approximately 60 river miles (96 km) from northern Scott County, Virginia, downstream into Hancock County, Tennessee, and is considered stable with recently documented recruitment (Eckert 2008b, pers. comm.). Survey work between 1979 and 1994 (Ahlstedt and Tuberville 1997, p. 73) reported low densities of 0.009 to 0.018 individuals per sq. ft. (0.1 to 0.2 per sq. m). Sampling efforts in 2005 and 2006 reported densities from two sites (RM 223.6 and 213.2) in Scott County, Virginia, of 0.226 and 0.064 individuals per sq. ft (0.021 and 0.006 per sq. m), respectively (Eckert 2008b, pers. comm.). Relative abundance for

sheepnose at these locations was 1.5 percent and 1.0 percent, respectively.

Powell River: The largest sheepnose collection (OSUM) known rangewide was collected in the Powell River, the Clinch River's largest tributary, and included 6 live and 141 fresh dead specimens. Today, the sheepnose population in the Powell River is considered stable, and recruitment has been documented. In 1979, Ahlstedt (1991b, pp. 129–130) reported 45 live specimens from 17 of 78 sites (an average of 2.6 individuals per site). Ahlstedt and Tuberville (1997, p. 96) conducted quantitative sampling in the Powell between 1979 and 1994, and found the sheepnose at densities of 0.107 and 0.861 per sq. ft (0.01 to 0.08 per sq. m). Sampling efforts in 2004 reported densities from two sites in Lee County, Virginia (RM 120.3 and 117.3), of 0.129 and 0.183 individuals per sq. ft (0.012 and 0.017 per sq. m), respectively (Eckert 2008b, pers. comm.). Relative abundance for sheepnose was 0.82 percent and 0.99 percent, respectively.

Duck River: The Duck River population is recently represented by the collection of a single, live, 10+-year-old animal in 2003 (Saylors 2008, pers. comm.; Ahlstedt et al 2004, p. 24). The sheepnose was likely always rare in the Duck River (Ahlstedt et al 2004, p. 24) and, previous to 2003, the species was thought to be extirpated as the species had not been collected in the River for 100 years. The current status of the population is unknown.

Lower Mississippi River System

The sheepnose was apparently never widely distributed in the lower Mississippi River system. The only verified records are for the Hatchie River in Tennessee and the Delta region in Mississippi. The only records for the Yazoo and Big Black Rivers are from archeological sites (Butler 2002a, p. 21). The sheepnose population in the Big Sunflower River, Mississippi, is the only one remaining in the lower Mississippi River system. Once abundant, judging from museum and archeological records, there is now only a small declining population in the Big Sunflower River (Jones 2008, pers. comm.). The population is believed to be limited to a 12- to 15-mile (19- to 24-km) reach upstream of Indianola in Sunflower County, Mississippi. Although no juvenile mussels have been found in recent sampling efforts, variably sized individuals indicate some, possibly very low, level of recruitment in the population (Jones 2008, pers. comm.).

Summary of Extant Sheepnose Populations

The sheepnose has experienced a significant reduction in range, and many of the extant populations are disjunct, isolated, and appear to be declining. The extirpation of this species from more than 50 streams (more than 65 percent) within its historical range indicates that substantial population losses have occurred. In the majority of streams with extant populations, the sheepnose appears to be uncommon at best. Only in the Allegheny and Green Rivers is the species considered to be improving in population status. Several other extant populations are thought to exhibit some level of stability and have experienced relatively recent recruitment (Chippewa/Flambeau, Meramec, Ohio, Tippecanoe, Clinch, and Powell Rivers). Given the compilation of current distribution, abundance, and status trend information, the sheepnose appears to exhibit a high level of imperilment.

Summary of Comments and Recommendations

In the proposed rule published on January 19, 2011 (76 FR 3392–3420), we requested that all interested parties submit written comments on the proposal by March 21, 2011. We contacted appropriate State and Federal agencies, county governments, elected officials, scientific organizations, and other interested parties and invited them to comment. We also published notices inviting general public comment in 12 newspapers throughout the range of the species. We did not receive any requests for a public hearing.

During the comment period for the proposed rule, we received a total of 16 comment letters directly addressing the proposed listing of the sheepnose and spectaclecase with endangered status. Six State agencies, three Federal agencies, six groups, and four individuals submitted comments. Of those, 15 were comments in support of the listing, 2 were not in support of the listing, and 2 did not express a clear position. The State of Virginia provided additional records of both species, and Pennsylvania provided information about additional threats to the sheepnose. The State of Missouri provided additional information about both species and their threats. The States of Iowa, Pennsylvania, Missouri, Virginia, and Wisconsin expressed their support of the listings. The remainder of the States did not express a position on the actions. All substantive information provided during the comment period has either been incorporated directly into this final determination or addressed below. For readers' convenience, we have combined similar comments into single comments and responses.

Peer Review

In accordance with our peer review policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we solicited expert opinion from eight knowledgeable individuals with scientific expertise on freshwater mollusks, applicable river basins, and conservation biology principles. The purpose of such review is to ensure that the designation is based on scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists.

We received written responses from three peer reviewers. All peer reviewers stated that the proposal included a thorough and accurate review of the available scientific and commercial data on these mollusks and their habitats. One peer reviewer provided information on observed behavior of the spectaclecase. Two reviewers provided additional location information for the spectaclecase and the sheepnose. One reviewer provided information on additional or emerging threats to one or both species. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* Peer reviewers provided updated information on spectaclecase and sheepnose populations throughout the ranges of these species.

Our Response: The updates have been incorporated into this final rule. These changes made to the known populations have not changed our final determinations.

(2) *Comment:* Peer reviewers agreed with the Service and commented that both species were valid species, the data provided was valid and adequate, and the threats presented were real to both species.

Our Response: These comments support the Service's proposal.

(3) *Comment:* One peer reviewer commented that the spectaclecase may be more active than stated in the proposal and cited a relocation study in the St. Croix River where spectaclecase were observed as the most active species among those relocated.

Our Response: We have incorporated information into the Background section of this final rule. Movement of this species may deserve further investigation during recovery planning and implementation.

(4) *Comment:* Peer reviewers commented that the Service provided sufficient evidence to show that both species are threatened by habitat destruction and curtailment. They further stated that both species depend on stable substrate within medium to large rivers and that rivers within their ranges have been modified by impoundment, channelization, and contamination. One reviewer stated that these threats may increase in the future with completion of restorations to the lock and dam system on the Ohio River and the planned navigation improvements on the Mississippi River associated with the authorized Navigation and Ecosystem Sustainability Program (NESP). The stability of habitat is further threatened by changes in local hydraulics due to instream construction and modification, and by the increased frequency of large-scale flooding (a result of climate change, destruction of riparian corridors, and decreased permeability within watersheds).

Our Response: These comments support the Service's proposal. Further discussion regarding this topic is under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range* and *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule.

(5) *Comment:* Peer reviewers agreed with the Service and commented that both species are not overutilized for commercial, recreational, scientific, or educational purposes.

Our Response: These comments support the Service's proposal. Further discussion regarding this topic is under *Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes* of this final rule.

(6) *Comment:* Peer reviewers commented that little is known about the effects of disease or predation on these species and that, while these factors do not seem to currently be an imminent threat, small and disjunct populations are more vulnerable to these factors.

Our Response: These comments support the Service's proposal. Further discussion regarding disease and predation is under *Factor C: Disease or Predation* of this final rule. Disease and predation may be further investigated during recovery planning and implementation for both species.

(7) *Comment:* One peer reviewer commented that chemical contamination from both point and nonpoint discharges will continue as significant threats to freshwater mussels due to their sedentary life form, which limits their ability to avoid exposure.

Our Response: These comments support the Service's proposal. The potential effects of contaminants on freshwater mussels are further discussed under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(8) *Comment:* One peer reviewer commented that the distribution of mussels in river systems appears to be greatly dependent on complex hydraulic characteristics and that the increased frequency of extreme events in the wake of global climate change could be major contributors to future habitat availability for these mussel species.

Our Response: These comments support the Service's proposal. The potential effects of climate change on freshwater mussels are further discussed under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule. The effects of climate change may be further investigated during recovery planning and implementation for both species.

(9) *Comment:* Peer reviewers commented that existing regulatory mechanisms do not prevent the destruction or modification of habitat for these species and that these species continue to decline despite existing regulations. The peer reviewer stated that endangered status would provide additional protection for remaining populations.

Our Response: These comments support the Service's proposal. Existing regulations are discussed under *Factor D: The Inadequacy of Existing Regulatory Mechanisms* of this final rule.

(10) *Comment:* Peer reviewers commented that the effects of zebra mussels are well documented in the rule and the effects of other invasive species will add to the stresses these species face; the effects of invasive species on both the spectaclecase and sheepnose need further study.

Our Response: These comments support the Service's proposal. The potential effects of invasive species on freshwater mussels are further discussed under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule. The effects of invasive species may be further investigated during recovery planning and implementation for both species.

(11) *Comment:* One peer reviewer commented that, in order to effectively protect these mussels, further study is needed to determine how temperature affects both species.

Our Response: These comments support the Service's proposal. The potential effects of temperature on freshwater mussels are further discussed under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule. The effects of temperature on both species may be further investigated during recovery planning and implementation.

(12) *Comment:* One peer reviewer commented that, in order to effectively protect these mussels, further study is needed on the genetics of both species.

Our Response: These comments support the Service's proposal. The genetics of both species are discussed under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule. The effects of invasive species may be further investigated during recovery planning and implementation for both species.

(13) *Comment:* One peer reviewer commented that a recent genetic study of the sheepnose indicates that extant populations appear to be genetically isolated from each other and that populations should be managed as independent entities for purposes of captive rearing and propagation unless there is additional evidence to do otherwise. This reviewer provided updated information of collections of the sheepnose mussel from several locations.

Our Response: We appreciate the submission of this updated information. These comments have been added to the Background section of this final rule.

(14) *Comment:* One peer reviewer recommended that large rock and rock structures be considered for inclusion as possible critical habitat for the spectaclecase mussel.

Our Response: We appreciate the comments. This rule only covers the listing of the two mussel species. We determined that, although the designation of critical habitat is prudent, it is not determinable at this time. Therefore, we did not propose critical habitat in the proposed listing rule and no critical habitat is designated with this final listing rule. We will use information provided to us in developing a future critical habitat proposal. Once a proposal is published, we will seek additional public comment on our proposed critical habitat designation.

State Comments

(15) *Comment:* The Pennsylvania Fish and Boat Commission, Wisconsin

Department of Natural Resources Bureau of Fisheries and Habitat and Endangered Resources, Missouri Department of Conservation, Iowa Department of Natural Resources, and Virginia Department of Game and Inland Fisheries provided comments stating that they support the proposal to list both species.

Our Response: We are grateful for support of the States and recognize that State partnerships are essential for the conservation of these species.

(16) *Comment:* The Pennsylvania Fish and Boat Commission, Wisconsin Department of Natural Resources Bureau of Fisheries and Habitat and Endangered Resources, Missouri Department of Conservation, and Virginia Department of Game and Inland Fisheries provided updated historical and current information on populations of one or both species in their States.

Our Response: We appreciate the submission of the updated information. The updates have been incorporated into this final rule.

(17) *Comment:* The Pennsylvania Fish and Boat Commission stated that the record of occurrence for the sheepnose in Hemlock Creek is not accurate. The occurrence record is from the Allegheny River in Venango County, Pennsylvania, near the mouth of Hemlock Creek. Further, the reference to Duck Creek in the Beaver River drainage should be clarified. Duck Creek is a tributary to the Mahoning River, which flows through eastern Ohio and into Pennsylvania. The Mahoning River joins the Shenango River at New Castle, Pennsylvania, to form the Beaver River. The Beaver River mainstem, which flows to the Ohio River, is contained entirely within the borders of Pennsylvania.

Our Response: We appreciate the submission of the updated information. The updates have been incorporated into this final rule.

(18) *Comment:* The Virginia Department of Game and Inland Fisheries was not aware of historical records of the spectaclecase in the Powell River in Virginia.

Our Response: We are aware of two spectaclecase records in the Powell River in Tennessee from 1978 and 1999 (Ahlstedt 2001, pers. comm.) but agree that no records are known from the Virginia portion of the river; therefore, we have kept the Powell River as a historical location for spectaclecase in this final rule.

(19) *Comment:* The Pennsylvania Fish and Boat Commission and the Missouri Department of Natural Resources provided updated information on State protection of these species in their respective States. The spectaclecase is considered to be a Species of Conservation Concern in Missouri, and is therefore afforded certain protections under Missouri's Wildlife Code (3 CSR 10–9, 110(1) (B)); the spectaclecase is not currently listed as endangered in the State of Missouri (3 CSR 10–4, '111). The sheepnose was State-listed as threatened in Pennsylvania on July 11, 2009.

Our Response: The Service appreciates the clarifications. We have corrected information under *Factor D; The Inadequacy of Existing Regulatory Mechanisms* in this final rule.

(20) *Comment:* The Pennsylvania Fish and Boat Commission provided information on threats to the sheepnose from a flood control project that could subject the species to changes in the thermal or flow regimes. Current flow management from the Allegheny Reservoir should be maintained or improved, where possible, in order to sustain downstream mussel populations. Flow management from the Kinzua Dam could be used to maintain mussel populations if faced with future impacts from climate change.

Our Response: We appreciate the submission of information on the potential threats of flood control and water management as it supports our assumption that these activities could threaten multiple populations of the sheepnose. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(21) *Comment:* The Pennsylvania Fish and Boat Commission commented on the importance of restoring host fish passage between navigation pools in the Allegheny and Ohio Rivers in order to promote the recolonization of the sheepnose via its host fish. They noted that current plans to restore fish passage around upper Ohio River locks and dams are at risk and a recent study described the implementation of fish passage as infeasible.

Our Response: We appreciate the comments. The issue of the fish passage will be investigated further under recovery planning and implementation for both species.

(22) *Comment:* The Missouri Department of Conservation provided information on threats to both species from heavy metal sedimentation in the Big River, Missouri.

Our Response: We appreciate the submission of information on the potential threats of heavy metal sedimentation as it supports our assumption that this activity could threaten multiple populations of the sheepnose and spectaclecase. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(23) *Comment:* The Missouri Department of Conservation provided information on threats to the spectaclecase from operation of hydropower facilities in the Salt River, Missouri.

Our Response: Although there are historical records of spectaclecase in the Salt River, we are unaware of any recent extant records of spectaclecase in the Salt River. The potential effects of the hydropower dam would be considered in recovery planning and implementation if any populations are discovered in the future. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(24) *Comment:* The Pennsylvania Fish and Boat Commission provided information on threats to the sheepnose from natural gas extraction from the Marcellus Shale formation. Current increases in natural gas extraction related to Marcellus Shale present a number of potential threats to the sheepnose, including the removal of large volumes of surface and groundwater for hydrofracking, spills of untreated fracking flowback water, and development of infrastructure associated with natural gas extraction.

Our Response: We appreciate the submission of information on the potential threats of natural gas extraction as it supports our assumption that this activity could threaten multiple populations of the sheepnose and spectaclecase. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range* and *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.*

(25) *Comment:* The Pennsylvania Fish and Boat Commission and the Pennsylvania Biological Survey provided information on golden algae (*Prymnesium parvum*) as a threat to sheepnose populations in areas where water is withdrawn for shale gas drilling. Shale gas drilling has the potential to impact at least one of the best remaining sheepnose populations.

Our Response: We appreciate the submission of information on the potential threats of golden algae as it supports our assumption that this activity could threaten multiple

populations of the sheepnose and spectaclecase. The information has been incorporated into this final rule under *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.*

(26) *Comment:* The Pennsylvania Fish and Boat Commission provided a comment regarding black carp *(Mylopharyngodon piceus),* a molluscivore (mussel-eater), as a potential threat to these species. Although the black carp is currently known from the Mississippi River and Illinois River drainages, there has been inadequate sampling in the Ohio River drainage and the potential for the species to move to the Allegheny River via the Ohio River is a real threat.

Our Response: We appreciate the submission of information on the potential threats of black carp as it supports our assumption that this activity could threaten multiple populations of the sheepnose and spectaclecase. Information on the black carp as a threat to these species has been incorporated into this final rule under *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.*

(27) *Comment:* The Wisconsin Department of Natural Resources Bureau of Fisheries and Habitat and Endangered Resources provided a comment indicating the importance of determining the host fish of the spectaclecase and that, if the host fish is negatively impacted, the species is also negatively impacted.

Our Response: Discussion on the role of the host fish was included in the proposed rule in the Life History section and under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range* and *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.* The issue of the host fish determination and conservation will be investigated further under recovery planning and implementation for the species.

(28) *Comment:* The Virginia Department of Mines, Minerals and Energy comments did not support the proposed rule to list either species. They stated that, for the past 30 years, the Virginia Department of Mines, Minerals, and Energy has worked with the mining industry to regulate the mining industry in southwestern Virginia. The Surface Mining Control and Reclamation Act of 1977 has helped reduce impacts to land and water resources throughout the Clinch River and Powell River watersheds that harbor many species of freshwater mussels. Sheepnose populations are considered stable in the Clinch River; however, the statement regarding coal mining and ''coal-related toxins'' in the proposed rule attempts to relate declining populations with mining in Virginia. The proposal failed to include a 2007 Service study of the toxicity of Powell River mining effluent screenings and slurry on juvenile mussels. This study showed no effect on survival or growth of the tested mussels.

Our Response: The 2007 study cited by the commenter was part of a 3-year (2007–10) study that the Service conducted in conjunction with the U.S. Geological Survey (for example, Wang *et al.* 2007c). In 2007, Wang *et al.* (2007d, p. 1) reported that 100 percent of the coal slurry tested for a 48-hour exposure time resulted in a statistically significant reduced survival of juvenile rainbow mussels *(Villosa iris).* Slurry particles mixed with well-water were not acutely or chronically toxic to the juvenile mussels, indicating that the toxicity in this instance is related to contaminants in the slurry water (Wang *et al.* 2007d, p. 1). Further investigations by Kunz *et al.* (2010, p. 1) assessed the potential effects of coal-associated contaminants in sediment on wavy-rayed lamp-mussels *(Lampsilis fasciola),* rainbow mussels, and commonly tested amphipods and midges.

Kunz *et al.* (2010, p. 1) studied sediment samples collected from 13 sites with historically impacted mussel communities and coal mining or gas well activities and 5 reference sites with healthy mussel communities and no or limited coal mining activities in the Clinch and Powell River basins in Tennessee and Virginia. Mean survival or growth of one or more test organisms was reduced in 9 of 13 sediments from sites with active coal mining or gas well activities relative to the response of test organisms in 5 reference sites. A higher proportion of samples were designated as toxic to the mussels (71 percent) compared to amphipods (29 percent) or midge (29 percent) in sediment samples tested with all three species. Mussel growth or biomass decreased with increasing mean metal probable effect concentration (PEC)-quotient or with increasing concentrations of total polycyclic aromatic hydrocarbon compounds (PAHs), indicating juvenile mussels may be more sensitive to metals and PAHs than other test organisms, and the PEC threshold may need to be lowered to be protective of mussels (Kunz *et al.* 2010, p. 1). Polycyclic aromatic hydrocarbon compounds have been found at relatively high levels in the upper portions of the Clinch and Powell Rivers in Virginia (Hampson *et al.* 2000, p. 20). Mussel growth also tended to decrease with increasing concentrations of major anions (sulfate and chloride), major cations (sodium and potassium), or conductivity in pore-water of sediments (Kunz et al. 2010), which was consistent with previous findings of reduced mussel survival in reconstituted waters with elevated concentrations of major anions and major cations (Wang *et al.* 2010, pp. 14–25).

Despite considerable information on the effects of contaminants on fish and other aquatic species, there are few studies that allow us to confidently predict the effects of individual contaminants on the survival, reproduction, and behavior of freshwater mussels in general, and spectaclecase and sheepnose mussels and their hosts fish in particular, under the variety of contaminant concentrations and conditions that may be encountered. Information on the effects of cadmium, ammonia, potassium, and copper is sufficient to predict effects with knowledge of concentrations, but other contaminants, such as EDCs, boron, manganese, and others, have largely unstudied effects on mussels. In the absence of species-specific data, we assume that the spectaclecase and sheepnose may be more sensitive to contaminants than standard test organisms for toxicity testing, based in part on studies that have demonstrated greater sensitivity (for example, Keller and Zam 1991; Jacobson *et al.* 1997; Cherry *et al.* 2002; Augspurger *et al.* 2003; Wang *et al.* 2007a, b; Bringolf *et al.* 2007a, b, c).

We also demonstrated that established criteria or benchmarks currently in place to protect aquatic life may not be adequate to protect the spectaclecase and sheepnose mussels. Since the Virginia Department of Mines, Minerals, and Energy did not provide definitive information as to the relative safety of mined materials and chemicals on the spectaclecase and sheepnose, we will rely on the data we have compiled in this final rule to support our determination.

(29) *Comment:* The Virginia Department of Mines, Minerals, and Energy commented that regulations and best management practices that are currently in place in Virginia emphasize improving water quality in areas impacted by mining and other activities. Areas in the Clinch River have improved such that there is emerging interest in reintroducing propagated mussels there. River ecosystems have shown signs of improved water quality and habitat since the sheepnose and spectaclecase mussels were identified as candidate species in 2004. They further

stated that a 5-year timeframe of investigation does not seem adequate when attempting to gauge the response of an organism to water quality improvements.

Our Response: The Code of Virginia states that discharges of water from areas disturbed by surface mining activities shall be made in compliance with all applicable State and Federal water quality laws, standards, and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR 434 (45.1–161.3 and 45.1–230 of the Code of Virginia available online at *http://leg1.state.va.us/000/reg/TOC04025.HTM*). However, as we have indicated in the Summary of Factors Affecting the Species section of this final rule, Federal and State water quality regulations are not adequate to protect the spectaclecase and sheepnose mussels. Best management practices for sediment and erosion control may be required by local ordinances for mining projects; however, compliance, monitoring, and enforcement of these recommendations are often poorly implemented. A myriad of pollutants, such as heavy metals, heavy sediment loads, and polycyclic aromatic hydrocarbon compounds, in mining wastewater discharge can be problematic to waterways when present in elevated levels.

While recent improvements to water quality may have occurred in some areas, current population data for the spectaclecase continues to show little evidence of recent recruitment (Butler 2012, pers. comm.). The upper Clinch River has reproducing populations of spectaclecase; however, the overall population of spectaclecase in the Clinch River is declining. The Clinch River is one of the few locations where sheepnose populations are considered stable with evidence of recent recruitment (Butler 2012, pers. comm.), though the population densities are relatively low. Although the species' response to water quality improvements may not be completely evident over the last 5 years, throughout the recovery process for these species, we will monitor whether those recent water quality improvements will lead to improving sheepnose and spectaclecase populations.

Federal Agencies Comments

(30) *Comment:* The Natural Resources Conservation Service of West Virginia provided comments stating that it would be unfortunate if both species were listed. They stated that several Federal programs, such as the Wildlife Habitat Incentives Program and the Environmental Quality Incentives Program, emphasize stream habitat restoration. Water quality and habitat improvement projects brought to fruition through these conservation practices may prevent the need to list these species.

Our Response: Restoration programs such as those listed above are important conservation tools and may aid species recovery. Despite these programs, the Service has documented significant declines in the range and population size of spectaclecase and sheepnose and significant threats to these species (see Background and the Summary of Factors Affecting the Species section of this final rule). Based on our analysis of the best data available, we have no reason to believe that population trends for either species addressed in this final rule will improve, nor will the effects of current threats acting on the species be ameliorated in the foreseeable future. We recognize that partnerships are essential for the conservation of these species.

(31) *Comment:* The Natural Resources Conservation Service of West Virginia provided comments encouraging agency partnerships with the Service to conserve both species.

Our Response: The Service seeks partnerships with all interested parties to conserve these species. We encourage the Natural Resources Conservation Service to be an active participant in the recovery planning and implementation process for these species in West Virginia and in other States as well.

(32) *Comment:* Under section 7 of the Act, Federal permitting agencies must determine if their projects may affect listed species. Will mussel survey standards be established to determine if mussels are in an area of a project? Also, are standards proposed in order for individuals to be qualified to survey for these species? Is there a level of impact that the Service would programmatically concur is not likely to adversely affect listed species?

Our Response: Under section 7 of the Act, Federal action agencies will need to consult with us should their activities adversely affect the species. If a Federal agency wants to consult on a program that may affect these listed mussels, we will conduct a programmatic section 7 consultation with that agency on that program. A determination of not likely to adversely affect needs to be made by the Federal agency and be supported by the appropriate documentation before we can provide concurrence. We will work with agencies to ensure that the best available data is used during consultation. Issues of standardizing survey protocols and surveyor qualifications may be further discussed during the recovery planning and implementation process for both species.

Public Comments

(33) *Comment:* The Service received comments from three groups supporting the proposal to list both species. Additionally, the Pennsylvania Biological Survey and the Western Pennsylvania Conservancy supported the listing of the sheepnose but did not comment on the spectaclecase, since that species is not historically known from Pennsylvania.

Our Response: These comments support the Service's proposal. We are grateful for the support of these nongovernmental organizations and recognize that partnerships are essential for the conservation of these species.

(34) *Comment:* Western Pennsylvania Conservancy and Pennsylvania Biological Survey provided clarifications on historical and current information on populations of the sheepnose in Pennsylvania.

Our Response: We appreciate the submission of the updated information. The updates have been incorporated into this final rule.

(35) *Comment:* The Nature Conservancy in West Virginia, Virginia, Kentucky, and Ohio commented that several of the rivers with extant populations of both species are within the Conservancy's freshwater portfolio as places important for the conservation of freshwater diversity, and they stressed the importance of continued conservation of those areas.

Our Response: These comments support the Service's proposal. We are grateful for support of these nongovernmental organizations and recognize that partnerships are essential for the conservation of these species in priority rivers established by The Nature Conservancy in these states and elsewhere.

(36) *Comment:* The Nature Conservancy in West Virginia, Virginia, Kentucky, and Ohio, and the Pennsylvania Biological Survey commented on additional threats to both species from recent and legacy energy development and activities (for example, coal mining, gas drilling, energy transmission, and development infrastructure) and their potential impacts to mussel habitat and water quality.

Our Response: These comments support the Service's proposal. Discussion on these threats was included under *Factor A: The Present or Threatened Destruction, Modification,*

or Curtailment of Their Habitat or Range and *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.*

(37) *Comment:* The Nature Conservancy in West Virginia, Virginia, Kentucky, and Ohio expressed their support of continued propagation and restoration efforts and noted some of the complexities that may surround those efforts.

Our Response: These comments support the Service's proposal. We are grateful for support of these nongovernmental organizations and recognize that partnerships are essential for the conservation of these species. Propagation and restoration efforts will be investigated further under recovery planning and implementation for both species.

(38) *Comment:* The Nature Conservancy in West Virginia, Virginia, Kentucky, and Ohio, commented on the importance of restoring host fish passage in the Ohio River in order to promote the recolonization of both species via their host fish. The Ohio River Basin Fish Habitat Partnership was recently formed to protect, restore, and enhance priority habitat for fish and mussels in the Ohio River Basin. The Partnership aims to improve and reconnect stream habitats. The Nature Conservancy is working with the Partnership and others to explore improving fish passage on the Ohio River.

Our Response: These comments support the Service's proposal. We are grateful for support of these nongovernmental organizations and recognize that partnerships are essential for the conservation of these species. Restoration issues will be investigated further under recovery planning and implementation for both species.

(39) *Comment:* The Nature Conservancy, Pennsylvania Biological Survey, and Western Pennsylvania Conservancy provided information on threats to the sheepnose from natural gas extraction from the Marcellus Shale formation.

Our Response: We appreciate the submission of information on the potential threats of natural gas extraction as it supports our assumption that this activity could threaten multiple populations of the sheepnose. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(40) *Comment:* The Western Pennsylvania Conservancy provided information on the potential future threats to the sheepnose from natural gas extraction from the Utica Shale formation within the Ohio River drainage.

Our Response: We appreciate the submission of information on the potential threats of natural gas extraction as it supports our assumption that this activity could threaten multiple populations of the sheepnose. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(41) *Comment:* The Pennsylvania Biological Survey and the Western Pennsylvania Conservancy commented on the large proportion of sheepnose habitat that has been eliminated in the Allegheny and Ohio Rivers since the construction of dams and the navigational pools, which may be the biggest cause of decline for the sheepnose in Pennsylvania.

Our Response: We appreciate the submission of this information. These comments support the Service's proposal. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(42) *Comment:* American Rivers commented that both species are threatened by habitat destruction and curtailment, particularly, habitat loss due to isolation by barriers, impoundments, and channelization, along with reduced water quality caused by wastewater discharges, nonpoint-source pollution, agricultural runoff, and invasive species. American Rivers has a record of advocacy and action regarding dam removal, river restoration, and water quality improvement.

Our Response: These comments support the Service's proposal. We are grateful for support of these nongovernmental organizations and recognize that partnerships are essential for the conservation of these species. Further discussion regarding these topics are included under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range* and *Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule.

(43) *Comment:* The Pennsylvania Biological Survey, the Western Pennsylvania Conservancy and American Rivers provided comments regarding black carp *(Mylopharyngodon piceus),* a notorious molluscivore (mussel-eater), as a potential threat.

Our Response: We appreciate the submission of the information. These comments support the Service's proposal. Information on the black carp as a threat to these species has been incorporated into the rule under *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.*

(44) *Comment:* The Pennsylvania Biological Survey and the Western Pennsylvania Conservancy provided comments regarding didymo *(Didymosphenia geminata),* a diatomaceous alga, as a potential threat to the sheepnose since it has recently been reported in the Delaware River watershed.

Our Response: We appreciate the submission of the information. These comments support the Service's proposal. Information on didymo as a threat to these species has been incorporated into this final rule under *Factor E: Other Natural or Manmade Factors Affecting Their Continued Existence.*

(45) *Comment:* The Pennsylvania Biological Survey provided their concerns about sand and gravel mining in the Allegheny River and the potential for further degradation of habitat and water quality due to those activities.

Our Response: We appreciate the submission of information on the potential threats of instream sand and gravel mining as it supports our assumption that this activity could threaten multiple sheepnose populations. Additional information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(46) *Comment:* The Western Pennsylvania Conservancy provided information on threats to the sheepnose from the flow management from the Kinzua Dam on the Allegheny River, which could subject the species to changes in the thermal or flow regimes. Current flow along the Allegheny River should be maintained or improved, where possible, in order to sustain downstream mussel populations. Flow management from the Kinzua Dam could be used to maintain mussel populations if faced with future climate change.

Our Response: We appreciate the submission of information on the potential threats of water management as it supports our assumption that these activities could threaten multiple populations of the sheepnose. The information has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(47) *Comment:* The Western Pennsylvania Conservancy commented that global climate change could be a major threat limiting future habitat availability for the sheepnose.

Our Response: These comments support the Service's proposal. The potential effects of climate change on freshwater mussels are discussed under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* of this final rule. The effects of climate change may be further investigated during recovery planning and implementation for both species.

(48) *Comment:* The Western Pennsylvania Conservancy commented that the status of the Allegheny River sheepnose population should not be ''Improving.'' The sheepnose is likely extirpated from approximately 70 miles of the Allegheny River. There is an apparently stable population in the middle of the river; however, this section of the river faces several threats that may affect the health of the river.

Our Response: We appreciate the submission of the information on the status of the population of sheepnose in the Allegheny River. Additional information has been incorporated into this final rule describing historical populations of sheepnose in the Allegheny River that are now extirpated and that supports our assertion that the status of the Allegheny River population is improving.

(49) *Comment:* The Western Pennsylvania Conservancy commented about the risk of toxic spills to sheepnose due to the proximity of commercial railroads to the Allegheny River and given the documented occasional railroad derailment and resulting spill of toxic materials.

Our Response: We appreciate the submission of the information. Information on toxic spills as a threat to these species has been incorporated into this final rule under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range.*

(50) *Comment:* American Rivers commented that it supports the designation of critical habitat for both species.

Our Response: We determined that, although the designation of critical habitat is prudent, it is not determinable at this time. Therefore, we did not propose critical habitat in the proposed listing rule and no critical habitat is designated with this final listing rule. We will use information provided to us in developing a future critical habitat proposal. Once a proposal is published, we will seek additional public comment on our proposed critical habitat designation.

(51) *Comment:* The Western Pennsylvania Conservancy commented that the implications of designating critical habitat to the repatriation of the sheepnose to presently unoccupied portions of its past range should be taken into consideration should it be restored to those presently extirpated areas.

Our Response: We determined that, although the designation of critical habitat is prudent, it is not determinable at this time. Therefore, we did not propose critical habitat in the proposed listing rule and no critical habitat is designated with this final listing rule. We will use information provided to us and consider whether designating unoccupied habitat is appropriate in developing a future critical habitat proposal. Once a proposal is published, we will seek additional public comment on our proposed critical habitat designation.

(52) *Comment:* American Rivers commented that both species benefit from the protections such as the Wild and Scenic and National Scenic Riverway in the St. Croix River basin of Wisconsin and Minnesota and receive indirect benefits from their work to restore more natural riverine conditions throughout Mississippi River tributaries.

Our Response: We are grateful for support of these nongovernmental organizations and recognize that partnerships are essential for the conservation of these species.

(53) *Comment:* The Columbia Power and Water Systems, Tennessee, did not support the proposed rule to list either species believing that the data we presented were inadequate to make such a decision. They also thought that strict permit conditions for water withdrawals and wastewater discharges will damage local economies. Finally, they stated that conservation measures to maintain or create critical habitat is an abuse of Federal power.

Our Response: In weighing the data on the current population status of these species and threats to their continued existence, we have determined that they both warrant endangered status. Under the Act, a decision to list a species is made solely on the basis of the best scientific and commercial data available, and does not consider potential economic impacts. We used the best scientific and commercial data available in developing this final listing rule. We determined that, although the designation of critical habitat is prudent, it is not determinable at this time. Therefore, we did not propose critical habitat in the proposed listing rule and no critical habitat is designated with this final listing rule. We will use information provided to us in developing a future critical habitat proposal. Once a proposal is published, we will seek additional public comment on our proposed critical habitat designation. When critical habitat is designated, the Service must take into consideration the potential economic impact, as well as any other benefits or impacts, of specifying any particular area as critical habitat. Any area may be excluded from critical habitat if it is determined that the benefits of excluding it outweigh the benefits of specifying the area as part of critical habitat, unless the Service determines that the failure to designate the area as critical habitat will result in the extinction of the species.

(54) *Comment:* The Columbia Power and Water Systems commented that the entire Duck River watershed should not be included in critical habitat designation.

Our Response: We determined that, although the designation of critical habitat is prudent, it is not determinable at this time. Therefore, we did not propose critical habitat in the proposed listing rule and no critical habitat is designated with this final listing rule. We will use information provided to us in developing a future critical habitat proposal. Once a proposal is published, we will seek additional public comment on our proposed critical habitat designation.

(55) *Comment:* The Columbia Power and Water Systems commented that the entire Duck River should not be included in either species' range. Only four collections of both species is not justification for including the entire watershed.

Our Response: The commenter did not provide additional information to support their position. The spectaclecase and sheepnose are both considered to be extant in the Duck River (Tennessee River drainage), although both species were likely always rare in the Duck River (Hubbs 2008, pers. comm.; Ahlstedt *et al.* 2004, pp. 14–15, 24). A single spectaclecase was recently found live in lower Duck River, Hickman County (Hubbs 1999, p. 1; Powell 2008, pers. comm.; Ahlstedt *et al.* 2004, pp. 14–15), at least two individuals have been documented from the lower part of the river in Humphreys County, and several relic specimens have been reported farther upstream (Hubbs 2008, pers. comm.; Powell 2008, pers. comm.). These records of spectaclecase cover an approximately 20-mile (32-km) reach of river. One live individual sheepnose was collected in

the Duck River in 2003 (Saylors 2008, pers. comm.; Ahlstedt *et al.* 2004, p. 24). Further discussion regarding this topic is under the Background section of this final rule.

(56) *Comment:* The Columbia Power and Water Systems suggested the economic impacts of critical habitat should be determined prior to any decision being made. Local watershed economic development agencies should be given the opportunity to provide input regarding economic harm caused by this rule.

Our Response: We determined that, although the designation of critical habitat is prudent, it is not determinable at this time. When critical habitat is proposed for the species, we will seek additional public comment on our proposed designation. When critical habitat is designated, the Service must take into consideration the potential economic impact, as well as any other benefits or impacts, of specifying any particular area as critical habitat. Local watershed economic development agencies will be given the opportunity to provide input on this economic analysis. Any area may be excluded from critical habitat if it is determined that the benefits of excluding it outweigh the benefits of specifying the area as part of critical habitat, unless the Service determines that the failure to designate the area as critical habitat will result in the extinction of the species.

(57) *Comment:* The Service received two comments from individuals supporting the proposal to list both species. We received two additional comments from individuals that provided anecdotal information without expressing clear support or disapproval of the rule.

Our Response: We are grateful for support of private citizens and recognize that partnerships are essential for the conservation of these species. These comments support the Service's proposal.

(58) *Comment:* The Service received information from one individual who expressed concern over the proposal's lack of specificity on how the Service plans to halt and reverse the declining populations of both species. The commenter is concerned how the Service plans to address threats such as the zebra mussel, and wanted more information on the host identification studies. The commenter was interested to know if the Service plans to engage in a public policy campaign to encourage practices among lay people that would benefit the mussels, and if so, details of these actions.

Our Response: We are grateful for the support of private citizens and recognize that partnerships are essential for the conservation of these species. This final rule cites several documents that give further detail of both species' life history, threats, and host identification. Further discussion on the threats of invasive species, host identification, and outreach will be discussed during recovery planning and implementation for both species.

Summary of Changes From the Proposed Rule

We have considered all comments and information received during the open comment period for the proposed rule to list the spectaclecase and sheepnose as endangered. In this final rule, we modified the historical range of the spectaclecase to exclude the state of Nebraska, which was erroneously included in the proposed rule. In addition, based on the recent discovery of live spectaclecase in the Osage River, the number of rivers with extant populations of spectaclecase increased from 19 to 20 rivers. We have also increased the number of extant populations of sheepnose from 24 to 25 based on a collection in the Rock River in 2007, and removed one extant sheepnose record from Pool 3 of the Mississippi River from 2001 as it was not a fresh dead shell but a relict shell found during the 2001 survey (Minnesota Department of Natural Resources 2011). We also removed an historical occurrence of sheepnose from Hemlock Creek in Pennsylvania as the record was actually from the Allegheny River at the mouth of Hemlock Creek. We have included Marcellus shale extraction under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range* and added other invasive species (didymo and golden algae) under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* in this final rule.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may determine a species to be endangered or threatened due to one or more of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors is discussed below.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The decline of mussels such as the spectaclecase and sheepnose is primarily the result of habitat loss and degradation (Neves 1991, pp. 252, 265). Chief among the causes of decline are impoundments, channelization, chemical contaminants, mining, oil and gas development, and sedimentation (Neves 1991, pp. 252, 260–261; Neves 1993, pp. 1–7; Neves *et al.* 1997, pp. 63–72; Strayer *et al.* 2004, pp. 435–437; Watters 2000, pp. 261–268; Williams *et al.* 1993, p. 7). These threats to mussels in general (and spectaclecase and sheepnose where specifically known) are individually discussed below.

Dams and Impoundments

Dams eliminate or reduce river flow within impounded areas, trap silts and cause sediment deposition, alter water temperature and dissolved oxygen levels, change downstream water flow and quality, decrease habitat heterogeneity, affect normal flood patterns, and block upstream and downstream movement of species (Layzer *et al.* 1993, pp. 68–69; Neves *et al.* 1997, pp. 63–64; Watters 2000, pp. 261–264). Within impounded waters, decline of freshwater mollusks has been attributed to sedimentation, decreased dissolved oxygen, and alteration in resident fish populations (Neves *et al.* 1997, pp. 63–64; Pringle *et al.* 2009, pp. 810–815; Watters 2000, pp. 261–264). Dams significantly alter downstream water quality and habitats (Allen and Flecker 1993, p. 36), and negatively affect tailwater mussel populations (Layzer *et al.* 1993, p. 69; Neves *et al.* 1997, p. 63; Watters 2000, pp. 265–266). Below dams, including those operated to generate hydroelectric power, mussel declines are associated with changes and fluctuation in flow regime, scouring and erosion, reduced dissolved oxygen levels and water temperatures, and changes in resident fish assemblages (Layzer *et al.* 1993, p. 69; Neves *et al.* 1997, pp. 63–64; Pringle *et al.* 2009, pp. 810–815; Watters 2000, pp. 265–266; Williams *et al.* 1992, p. 7). The decline and imperilment of freshwater mussels in several tributaries within the Tennessee, Cumberland, Mississippi, Missouri, and Ohio River basins have been directly attributed to construction of numerous impoundments in those

river systems (Hanlon *et al.* 2009, pp. 11–12; Layzer *et al.* 1993, pp. 68–69; Miller *et al.* 1984, p. 109; Neves *et al.* 1997, pp. 63–64; Sickel *et al.* 2007, pp. 71–78; Suloway 1981, pp. 237–238; Watters 2000, pp. 262–263; Watters and Flaute 2010, pp. 3–7; Williams and Schuster 1989, pp. 7–10).

Population losses due to impoundments have likely contributed more to the decline and imperilment of the spectaclecase and the sheepnose than any other factor. Large river habitat throughout nearly all of the range of both species has been impounded, leaving generally short, isolated patches of vestigial habitat in the area below dams. Navigational locks and dams, (for example, on the upper Mississippi, Ohio, Allegheny, Muskingum, Kentucky, Green, and Barren Rivers), some high-wall dams (for example, on the Wisconsin, Kaskaskia, Walhonding, and Tippecanoe Rivers), and many low-head dams (for example, on the St. Croix, Chippewa, Flambeau, Wisconsin, Kankakee, and Bourbeuse Rivers) have contributed significantly to the loss of sheepnose and spectaclecase habitat (Butler 2002a, pp. 11–20 2002b, pp. 9–25).

The majority of the Tennessee and Cumberland River main stems and many of their largest tributaries are now impounded. There are 36 major dams located in the Tennessee River system, and about 90 percent of the Cumberland River downstream of Cumberland Falls (RM 550 (RKM 886)) is either directly impounded by U.S. Army Corps of Engineers (Corps) structures or otherwise impacted by cold tail water released from several dams. Major Corps impoundments on Cumberland River tributaries (for example, Stones River and Caney Fork) have inundated an additional 100 miles (161 km) or more of spectaclecase and sheepnose habitat. Coldwater releases from Wolf Creek, Dale Hollow (Obey River), and Center Hill (Caney Fork) Dams continue to degrade spectaclecase and sheepnose habitat in the Cumberland River system. For example, the scouring effects caused by 40 years of operation of the Center Hill Dam for hydroelectric power generation has dramatically altered the river morphology for 7 miles (12 km) downstream of the dam (Layzer *et al.* 1993, p. 69). Layzer *et al.* (1993, p. 68) reported that 37 of the 60 pre-impoundment mussel species of the Caney Fork River have been extirpated. Watters (2000, pp. 262–263) summarizes the tremendous loss of mussel species from various portions of the Tennessee and Cumberland River systems. Approximately one-third of the historical sheepnose and spectaclecase streams are in the Tennessee and Cumberland River systems.

Navigational improvements on the Ohio River began in 1830, and now include 21 lock and dam structures stretching from Pittsburgh, Pennsylvania, to Olmsted, Illinois, near its confluence with the Mississippi River. Historically, habitat now under navigational pools once supported up to 50 species of mussels, including the spectaclecase and sheepnose. Tributaries to the Ohio River, such as the Green and Allegheny Rivers, were also altered by impoundments. The Allegheny River once supported sheepnose populations in what are now Pools 5–8; however, all of the sheepnose in the navigation pools have been extirpated, and the only remaining population exists above Pool 9 and below the Kinzua Dam (Urban pers. comm. 201, Smith and Meyer 2010, p. 558). The fluctuating water levels released from the Kinzua Dam and Reservoir on the Allegheny River may have an impact on this last remaining sheepnose population, which is located approximately 25 miles (40 km) downstream. A series of six locks and dams was constructed on the lower half of the Green River decades ago and extend upstream to the western boundary of Mammoth Cave National Park (MCNP). The upper two locks and dams destroyed spectaclecase habitat, particularly Lock and Dam 6, which flooded the central and western portions of MCNP. Approximately 30 river miles (48 km) of mainstem habitat were also eliminated with the construction of the Green River Dam in 1969. Locks and dams were also constructed on the lower reaches of the Allegheny, Kanawha, Muskingum, and Kentucky Rivers, which disrupted historical riverine habitat for the sheepnose.

Similarly, dams impound most of the upper Mississippi River and many of its tributaries. A series of 29 locks and dams constructed since the 1930s in the mainstem resulted in profound changes to the nature of the river, primarily replacing a free-flowing alluvial (flood plain) system with a stepped gradient (higher pool area to riffle area ratio) river. Modifications fragmented the mussel beds where spectaclecase and sheepnose were found in the Mississippi River, reduced stable riverine habitat, and disrupted fish host migration and habitat use.

Dams and impoundments have fragmented and altered stream habitats throughout the Sac River Basin in the lower Missouri River system. Stockton Dam impounds 39 miles (63 km) of the upper Sac River, and the Truman Dam inundates about 8 miles (13 km) of the lower Sac River and its tributaries (Hutson and Barnhart 2004, p. 7). The rarity of live spectaclecase in the Sac River, coupled with the large number of dead shells observed in a recent study, suggests that this species has decreased since the river was impounded, and that spectaclecase may soon be extirpated from the Sac River system (Hutson and Barnhart 2004, p. 17).

Dam construction has a secondary effect of fragmenting the ranges of aquatic mollusk species, leaving relict habitats and populations isolated by the structures as well as by extensive areas of deep uninhabitable, impounded waters. These isolated populations are unable to naturally recolonize suitable habitat that is impacted by temporary, but devastating events, such as severe drought, chemical spills, or unauthorized discharges (Cope *et al.* 1997, pp. 235–237; Layzer *et al.* 1993, pp. 68–69; Miller and Payne 2001, pp. 14–15; Neves *et al.* 1997, pp. 63–75; Pringle *et al.* 2009, pp. 810–815; Watters 2000, pp. 264–265, 268; Watters and Flaute 2010, pp. 3–7).

Sedimentation

Nonpoint source pollution from land surface runoff originates from virtually all land use activities and includes sediments; fertilizer, herbicide, and pesticide residues; animal or human wastes; septic tank leakage and gray water discharge; and oils and greases. Nonpoint-source pollution can cause excess sedimentation, nutrification, decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry that can negatively impact freshwater mussels. Land use types around the sheepnose and spectaclecase populations include pastures, row crops, timber, and urban and rural communities.

Excessive sediments are believed to impact riverine mollusks requiring clean, stable streams (Brim Box and Mosa 1999, p. 99; Ellis 1936, pp. 39–40). Impacts resulting from sediments have been noted for many components of aquatic communities. For example, sediments have been shown to affect respiration, growth, reproductive success, and behavior of freshwater mussels, and to affect fish growth, survival, and reproduction (Waters 1995, pp. 173–175). Potential sediment sources within a watershed include virtually all activities that disturb the land surface, and most localities currently occupied by the spectaclecase and sheepnose are affected to varying degrees by sedimentation.

Sedimentation has been implicated in the decline of mussel populations

nationwide, and is a threat to spectaclecase and sheepnose (Brim Box and Mosa 1999, p. 99; Dennis 1984, p. 212; Ellis 1936, pp. 39–40; Fraley and Ahlstedt 2000, pp. 193–194; Poole and Downing 2004, pp. 119–122; Vannote and Minshall 1982, pp. 4105–4106). Specific biological impacts include reduced feeding and respiratory efficiency from clogged gills, disrupted metabolic processes, reduced growth rates, limited burrowing activity, physical smothering, and disrupted host fish attractant mechanisms (Ellis 1936, pp. 39–40; Hartfield and Hartfield 1996, p. 373; Marking and Bills 1979, p. 210; Vannote and Minshall 1982, pp. 4105–4106; Waters 1995, pp. 173–175). In addition, mussels may be indirectly affected if high turbidity levels significantly reduce the amount of light available for photosynthesis and thus the production of certain food items (Kanehl and Lyons 1992, p. 7).

Studies indicate that the primary impacts of excess sediment on mussels are sublethal, with detrimental effects not immediately apparent (Brim Box and Mosa 1999, p. 101). The physical effects of sediment on mussels are multifold, and include changes in suspended and bed material load; changes in bed sediment composition associated with increased sediment production and run-off in the watershed; changes in the form, position, and stability of channels; changes in depth or the width-to-depth ratio, which affects light penetration and flow regime; actively aggrading (filling) or degrading (scouring) channels; and changes in channel position that may leave mussels stranded (Brim Box and Mosa 1999, pp. 109–112; Kanehl and Lyons 1992, pp. 4–5; Vannote and Minshall 1982, p. 4106). The Chippewa River in Wisconsin, for example, has a tremendous bedload composed primarily of sand that requires dredging to maintain barge traffic on the mainstem Mississippi below its confluence (Thiel 1981, p. 20). The mussel diversity in the Mississippi River below the confluence with the Chippewa River has predictably declined from historical times. Lake Pepin, a once natural lake formed in the upper Mississippi River upstream from the mouth of the Chippewa River, has become increasingly silted in over the past century, reducing habitat for the spectaclecase and sheepnose (Thiel 1981, p. 20).

Increased sedimentation and siltation may explain in part why spectaclecase and sheepnose mussels appear to be experiencing recruitment failure in some streams. Interstitial spaces in the substrate provide crucial habitat for juvenile mussels. When clogged, interstitial flow rates and spaces are reduced (Brim Box and Mosa 1999, p. 100), thus reducing juvenile habitat. Furthermore, sediment may act as a vector for delivering contaminants such as nutrients and pesticides to streams, and juveniles may ingest contaminants adsorbed to silt particles during normal feeding activities. Female spectaclecase and sheepnose produce conglutinates that attract hosts. Such a reproductive strategy depends on clear water during the critical time of the year when mussels are releasing their glochidia.

Agricultural activities produce the most significant amount of sediment that enters streams (Waters 1995, pp. 17–18). Neves *et al.* (1997, p. 65) stated that agriculture (including both sediment and chemical runoff) affects 72 percent of the impaired river miles in the country. Unrestricted livestock access occurs on many streams and potentially threatens their mussel populations (Fraley and Ahlstedt 2000, pp. 193–194). Grazing may reduce infiltration rates and increase runoff; trampling and vegetation removal increases the probability of erosion (Armour *et al.* 1991, pp. 8–10; Brim Box and Mosa 1999, p. 103). The majority of the remaining spectaclecase and sheepnose populations are threatened by some form of agricultural runoff (nutrients, pesticides, sediment). Copper Creek, a tributary to the Clinch River, for example, has a drainage area that contains approximately 41 percent agricultural land (Hanlon *et al.* 2009, p. 3). Fraley and Ahlstedt (2000, p. 193) and Hanlon *et al.* (2009, pp. 11–12) attributed the decline of the Copper Creek mussel fauna to an increase in cattle grazing and resultant nutrient enrichment and loss of riparian vegetation along the stream, among other factors. This scenario is similar in other parts of the extant range of the spectaclecase and sheepnose.

Sedimentation and urban runoff may also be threats to the sheepnose in the Kankakee River system as the Chicago Metro area continues to expand. Declines in mussel diversity observed in the Ohio River are in part due to pollution from urban centers; in many of these areas the loss of diversity has not recovered from water quality problems that began prior to dam construction (Watters and Flaute 2010, pp. 3–7).

As the spectaclecase primarily inhabits deep water along the outside of bends, it may be particularly vulnerable to siltation. The current often slackens in this habitat, more so than in riffles and runs where other mussel species are typically found, and suspended sediment settles out. Spectaclecase beds covered with a thick layer of silt have been observed in Missouri, often downstream from reaches with eroding banks (Roberts 2008c, pers. comm.).

Channelization

Dredging and channelization activities have profoundly altered riverine habitats nationwide. Hartfield (1993, pp. 131–139), Neves *et al.* (1997, pp. 71–72), and Watters (2000, pp. 268–269) reviewed the specific effects of channelization on freshwater mussels. Channelization impacts stream physically (for example accelerated erosion, reduced depth, decreased habitat diversity, geomorphic instability, and loss of riparian vegetation) and biologically (for example decreased fish and mussel diversity, altered species composition and abundance, decreased biomass, and reduced growth rates) (Hartfield 1993, pp. 131–139). Channel construction for navigation increases flood heights (Belt 1975, p. 684), partly as a result of a decrease in stream length and an increase in gradient (Hubbard *et al.* 1993, p. 137 (in Hartfield 1993, p. 131)). Flood events may thus be exacerbated, conveying into streams large quantities of sediment, potentially with adsorbed contaminants. Channel maintenance may result in profound impacts downstream (Stansbery 1970, p. 10), such as increases in turbidity and sedimentation, which may smother bottom-dwelling organisms.

Channel maintenance operations for commercial navigation have impacted habitat for the sheepnose and spectaclecase in many large rivers rangewide. Periodic channel maintenance may continue to adversely affect this species in the upper Mississippi, Ohio, Muskingum, and Tennessee rivers. Further modifications to the Mississippi River channel are anticipated with the authorization of the NESP (Water Resources Development Act of 2007 (Pub. L. 110–114)), which will consist of construction of larger locks and other navigation improvements downstream of MRP 14. Continual maintenance of the Mississippi River navigation channel requires dredging, wing and closing dam reconstruction and maintenance, and bank armoring. Dredging, maintenance, and construction activities destabilize instream fine sediments and continue to affect aquatic habitats. Spectaclecase tend to inhabit relatively deep water where they are particularly vulnerable to siltation. The current is slower in this habitat than in riffles and runs, and suspended sediment settles

out in greater volume. Dredging to maintain barge traffic on the Mississippi River below the mouth of the Chippewa River in Wisconsin has reduced mussel diversity due to the increase in unstable sand substrates (Thiel 1981, p. 20).

Disposal of dredge materials can also be a major concern for mussel populations. A large amount of spoil (dredged earth and rock) was dumped directly on a mussel bed in the Muskingum River that included the sheepnose in the late 1990s (Watters 2010b, pers. comm.). Thousands of mussels were killed as the result of this single event. Watters and Dunn (1995 p. 231) also noted that the lower ends of two mussel beds coincided with the mouths of Wolf and Bear Creeks. This led them to surmise that pollutants, such as sediment loads or agricultural runoff, in their watersheds may adversely impact mussels in the mainstem Muskingum River below the confluences of Wolf Creek and Bear Creek.

Mussels require a stable substrate to survive and reproduce and are particularly susceptible to channel instability (Neves *et al.* 1997, p. 23; Parmalee and Bogan 1998). Channel and bank degradation have led to the loss of stable substrates in the Meramec River Basin. Roberts and Bruenderman (2000, pp. 7–8, 21–23) pointed to the loss of suitable stable habitat as a major cause of decline in mussel abundance at sites previously surveyed in 1979.

The Tennessee River was once a stronghold for the spectaclecase (Ortmann 1924, p. 60; 1925, p. 327), and the sheepnose was originally known to occur in the Tennessee River and 10 of its tributaries (Ortmann 1925, p. 328). Periodic dredging is conducted in the mainstem of the Tennessee River to maintain the 9-foot navigational channel (Chance 2008, pers. comm.). Severe bank erosion is ongoing along some reaches of the river below Pickwick Landing Dam, with some sites losing several feet of stream bank per year (Hubbs 2008, pers. comm.).

The upper Kankakee River in Indiana was channelized several decades ago. The sheepnose is now considered extirpated from the upper Kankakee, and is restricted to the unchannelized portion of the river in Illinois (Cummings 2010a, pers. comm.).

Mining

Instream gravel mining has been implicated in the destruction of mussel populations (Hartfield 1993, pp. 136–138). Negative impacts associated with gravel mining include stream channel modifications (altered habitat, disrupted flow patterns, and sediment transport), water quality modifications (increased turbidity, reduced light penetration, and increased temperature), macroinvertebrate population changes (elimination, habitat disruption, and increased sedimentation), and changes in fish populations (impacts to spawning and nursery habitat and food web disruptions) (Kanehl and Lyons 1992, pp. 4–10).

Heavy metal-rich drainage from coal mining and associated sedimentation has adversely impacted portions of the Tennessee River system in Virginia. Low pH commonly associated with mine runoff can reduce glochidial encystment (attachment) rates (Huebner and Pynnonen 1992, pp. 2350–2353). Acid mine runoff may thus have local impacts on recruitment of the mussel populations close to mines. Similarly, heavy metal contaminated sediments associated with lead mining have negatively impacted mussel populations along several miles of the Big River, Missouri (Roberts *et al.* 2009 p. 20).

Coal-related toxins in the Clinch River may explain the decline and lack of mussel recruitment at some sites in the Virginia portion of that stream (Ahlstedt 2008, pers. comm.). Patterns of mussel distribution and abundances have been found to be negatively correlated with proximity to coal-mining activities (Ahlstedt and Tuberville 1997, pp. 74–75). Known mussel toxicants, such as polycyclic aromatic hydrocarbons, heavy metals (for example, copper, manganese, and zinc), and other chemicals from coal mining and other activities contaminate sediments in the Clinch River (Ahlstedt and Tuberville 1997, p. 75). These chemicals are toxic to juvenile mussels (Ahlstedt and Tuberville 1997, p. 75). Pollutant inputs to the Clinch River from a coal-burning power plant in Carbo, Virginia, were shown to increase mortality and reduce cellulolytic activity (breaking down cellulose) in transplanted mussels (Farris *et al.* 1988, pp. 705–706). Site-specific copper toxicity studies of unionid glochidia in the Clinch River showed that freshwater mussels as a group were generally sensitive to copper, the toxic constituent of the power plant effluent (Cherry *et al.* 2002, p. 596). All of these studies indicate that coal mining related discharges may have local impacts on spectaclecase recruitment and survival in this river.

Gravel-mining activities may also be a localized threat in some streams with extant sheepnose and spectaclecase populations. Gravel mining causes stream instability, increasing erosion, turbidity, and subsequent sediment deposition (Meador and Layzer 1998, pp. 8–9). Gravel mining is common in the Meramec River system. Between 1997 and 2008, the Missouri Department of Natural Resources issued permits for 102 sand- and gravel-mining sites in the Meramec River (Zeaman 2008, pers. comm.). Although rigid guidelines prohibited instream mining and required streamside buffers, a court ruling deauthorized the Corps from regulating these habitat protective measures. The Corps still retains oversight for gravel mining, but many mining operations do not fall under Corps jurisdiction (Roberts and Bruenderman 2000, p. 23). In the lower Tennessee River, mining is permitted in 18 reaches for a total of 47.9 river miles (77.1 km) between the Duck River confluence and Pickwick Landing Dam, a distance of more than 95 miles (153 km) (Hubbs 2008, pers. comm.). This is the reach where mussel recruitment has been noted for many rare species in recent years. These activities have the potential to impact the river's small sheepnose population. The Gasconade River and its tributaries have been subject to gravel mining and other channel modifying practices that accelerate channel destabilization. These physical habitat threats combined with poor water quality and agricultural nonpoint-source pollution are serious threats to all existing mussel fauna in the system. In their surveys of Pools 4–8 of the Allegheny River, Smith and Meyer (2010, p. 556) found higher species richness and population counts in the areas of the pools 7 and 8 that were free of sand and gravel mining than areas where there were past or current mining permits.

Oil and Gas Development

Coal, oil, and natural gas resources are present in some of the watersheds that are known to support sheepnose, including the Allegheny River. Exploration and extraction of these energy resources can result in increased siltation, a changed hydrograph, and altered water quality even at a distance from the mine or well field. Sheepnose habitat in larger streams can be threatened by the cumulative effects of multiple mines and well fields (adapted from Service 2008, p. 11).

Coal, oil, and gas resources are present in a number of the basins where sheepnose occur, and extraction of these resources has increased dramatically in recent years, particularly in Pennsylvania and West Virginia. Although oil and gas extraction generally occurs away from the river, extensive road networks are required to construct and maintain wells. These road networks frequently cross or occur near tributaries, contributing sediment

to the receiving waterway. In addition, the construction and operation of wells may result in the discharge of brine. Point-source discharges are typically regulated; however, nonpoint inputs such as silt and other contaminants may not be sufficiently regulated, particularly those originating some distance from a waterway. In 2006, more than 3,700 permits were issued for oil and gas wells by the Pennsylvania Department of Environmental Protection, which also issued 98 citations for permit violations at 54 wells (Hopey 2007; adapted from Service 2008, p. 12).

Recent advances in drilling technology and rising natural gas prices have attracted new interest in the natural gas held in the Marcellus Shale rock formation that underlies approximately two-thirds of Pennsylvania and portions of the States of New York and West Virginia (PA DEP 2010, p. 1). Similarly, the Utica Shale rock formation, which underlies the Marcellus Shale in many locations, may also be mined for natural gas in the foreseeable future (Bier 2011, pers. comm.; Urban 2011, pers. comm.). The hydraulic fracturing process of Marcellus Shale natural gas extraction typically requires about one million gallons of water for a vertical well to approximately five million gallons of water for a vertical well with a horizontal lateral (PA DEP 2010, p. 1). The used water, often referred to as ''frac returns'' must be reused in the next well or sent to an approved treatment facility before it is discharged into natural waterways. In Pennsylvania, there are currently few treatment facilities capable of treating Marcellus Shale frac returns fluids, which may have high total dissolved salts, particularly chlorides (Urban 2011, pers. comm.). In addition, infrastructure development associated with Marcellus Shale industry, such as dirt and gravel roads and pipeline construction, may increase sedimentation in rivers (Bier 2011, pers. comm.; Urban 2011, pers. comm.); erosion and sediment control plan requirements under State law (PA Code Chapter 102) require gas companies to use preventative measures to restore the site and vegetation within 9 months of well completion (PA DEP 2010, p. 2).

Chemical Contaminants

Chemical contaminants are ubiquitous throughout the environment and are considered a major threat in the decline of freshwater mussel species (Cope *et al.* 2008, p. 451; Richter *et al.* 1997, p. 1081; Strayer *et al.* 2004, p. 436; Wang *et al.* 2007a, p. 2029). Chemicals enter the environment through both point and nonpoint discharges including spills, industrial sources, municipal effluents, and agricultural runoff. These sources contribute organic compounds, heavy metals, pesticides, and a wide variety of newly emerging contaminants to the aquatic environment. As a result, water and sediment quality can be degraded to the extent that mussel populations are adversely impacted.

Chemical spills can be especially devastating to mussels because they may result in exposure of a relatively immobile species to extremely elevated concentrations that far exceed toxic levels and any water quality standards that might be in effect. Some notable spills that released large quantities of highly concentrated chemicals resulting in mortality to mussels include:

- Massive mussel kills on the Clinch River at Carbo, Virginia, occurred from a power plant alkaline fly ash pond spill in 1967, and a sulfuric acid spill in 1970 (Crossman *et al.* 1973, p. 6);
- Approximately 18,000 mussels of several species, including 750 individuals from three endangered mussel species, were eliminated from the upper Clinch River near Cedar Bluff, Virginia in 1998, when an overturned tanker truck released 1,600 gallons (6,056 liters) of a chemical used in rubber manufacturing (Jones *et al.* 2001, p. 20; Schmerfeld 2006, p. 12); and
- An ongoing release of sodium dimethyl dithiocarbamate, a chemical used to reduce and precipitate hexachrome, starting in 1999 impacted approximately 10 river miles (16 km) of the Ohio River and resulted in an estimated loss of one million mussels, including individuals from two federally listed species (DeVault 2009, pers. comm.; Clayton 2008c, pers. comm.).

These are not the only instances where chemical spills have resulted in the loss of high numbers of mussels (Brown *et al.* 2005, p. 1457; Jones *et al.* 2001, p. 20; Neves 1991, p. 252; Schmerfeld 2006, pp. 12–13), but are provided as examples of the serious threat chemical spills pose to mussel species. The sheepnose and spectaclecase are especially threatened by chemical spills because these spills can occur anywhere that highways with tanker trucks, industries, or mines overlap with sheepnose and spectaclecase distribution.

Exposure of mussels to lower concentrations of contaminants more likely to be found in aquatic environments can also adversely affect mussels and result in the decline of freshwater mussel species. Such concentrations may not be immediately lethal, but over time, can result in mortality, reduced filtration efficiency, reduced growth, decreased reproduction, changes in enzyme activity, and behavioral changes to all mussel life stages. Frequently, procedures that evaluate the 'safe' concentration of an environmental contaminant (for example, national water quality criteria) do not have data for freshwater mussel species or exclude data that are available for freshwater mussels (March *et al.* 2007, pp. 2066–2067, 2073).

Current research is now starting to focus on the contaminant sensitivity of freshwater mussel glochidia and newly-released juvenile mussels (Goudreau *et al.* 1993, pp. 219–222; Jacobson *et al.* 1997, p. 2390; March *et al.* 2007, pp. 2068–2073; Valenti *et al.* 2006, pp. 2514–2517; Valenti *et al.* 2005, pp. 1244–1245; Wang *et al.* 2007c, pp. 2041–2046) and juveniles (Augspurger *et al.* 2003, p. 2569; Bartsch *et al.* 2003, p. 2561; March *et al.* 2007, pp. 2068–2073; Mummert *et al.* 2003, p. 2549; Valenti *et al.* 2006, pp. 2514–2517; Valenti *et al.* 2005, pp. 1244–1245; Wang *et al.* 2007b, pp. 2053–2055; Wang *et al.* 2007c, pp. 2041–2046) to such contaminants as ammonia, metals, chlorine, and pesticides. The toxicity information presented in this section focuses on recent water-only laboratory acute (sudden and severe exposure) and chronic (prolonged or repeated exposure) toxicity tests with early life stages of freshwater mussels, using the standard testing methodology published by the American Society for Testing and Materials (ASTM) (American Society for Testing and Materials. 2008. Standard guide for conducting laboratory toxicity tests with freshwater mussels E2455–06. In *Annual Book of ASTM Standards,* Vol. 11.06. Philadelphia, PA, pp. 1442–1493.) Use of this standard testing method generates consistent, reliable toxicity data with acceptable precision and accuracy (Wang *et al.* 2007a, p. 2035) and was used for toxicity tests on ammonia, copper, chlorine and select pesticides (Augspurger *et al.* 2007, p. 2025; Bringolf *et al.* 2007b, p. 2101; Bringolf *et al.* 2007c, p. 2087; Wang *et al.* 2007a, p. 2029; Wang *et al.* 2007b, p. 2048; Wang *et al.* 2007c, p. 2036). Use of these tests has documented that, while mussels are sensitive to some contaminants, they are not universally sensitive to all contaminants (Augspurger *et al.* 2007, pp. 2025–2026).

One chemical that is particularly toxic to early life stages of mussels is ammonia. Sources of ammonia include agricultural wastes (animal feedlots and nitrogenous fertilizers), municipal

wastewater treatment plants, and industrial waste (Augspurger *et al.* 2007, p. 2026) as well as precipitation and natural processes (decomposition of organic nitrogen) (Augspurger *et al.* 2003, p. 2569; Goudreau *et al.* 1993, p. 212; Hickey and Martin 1999, p. 44; Newton 2003, p. 1243). Therefore, ammonia is considered a limiting factor for survival and recovery of some mussel species due to its ubiquity in aquatic environments and high level of toxicity, and because the highest concentrations typically occur in mussel microhabitats (Augspurger *et al.* 2003, p. 2574). In addition, studies have shown that ammonia concentrations increase with increasing temperature and low flow conditions (Cherry *et al.* 2005, p. 378; Cooper *et al.* 2005, p. 381), which may be exacerbated by the effects of climate change, and may cause ammonia to become more problematic for juvenile mussels. The EPA-established ammonia water quality criteria (EPA 1985, pp. 94–99) may not be protective of mussels (Augspurger *et al.* 2003, p. 2572; Sharpe 2005, p. 28) under current and future climate conditions.

Mussels are also affected by metals (Keller and Zam 1991, p. 543), such as cadmium, chromium, copper, mercury, and zinc, which can negatively affect biological processes such as growth, filtration efficiency, enzyme activity, valve closure, and behavior (Jacobson *et al.* 1997, p. 2390; Keller and Zam 1991, p. 543; Naimo 1995, pp. 351–355; Valenti *et al.* 2005, p. 1244). Metals occur in industrial and wastewater effluents and are often a result of atmospheric deposition from industrial processes and incinerators. Glochidia and juvenile freshwater mussels have recently been studied to determine the acute and chronic toxicity of copper to these life stages (Wang *et al.* 2007b, pp. 2048–2056; Wang *et al.* 2007c, pp. 2036–2047). The chronic values determined for copper ranged from 8.5 to 9.8 micrograms per liter (ug/L) for survival and from 4.6 to 8.5 ug/L for growth of juveniles. These chronic values are below the EPA 1996 chronic water quality criterion of 15 ug/L (hardness 170 mg/L) for copper (Wang *et al.* 2007b, pp. 2052–2055). March (2007, pp. 2066, 2073) identifies that copper water quality criteria and modified State water quality standards may not be protective of mussels.

Mercury is another heavy metal that has the potential to negatively affect mussel populations, and it is receiving attention due to its widespread distribution and potential to adversely impact the environment. Mercury has been detected throughout aquatic environments as a product of municipal and industrial waste and atmospheric deposition from coal-burning plants. One recent study evaluated the sensitivity of early life stages of mussels to mercury (Valenti *et al.* 2005, p. 1242). This study determined that, for the mussel species used (rainbow mussel, *Villosa iris*), glochidia were more sensitive to mercury than were juvenile mussels, with the median lethal concentration value of 14 ug/L compared to 114 ug/L for the juvenile life stage. The chronic toxicity tests conducted determined that juveniles exposed to mercury greater than or equal to 8 ug/L exhibited reduced growth. These observed toxicity values exceed EPA's Criteria Continuous Concentration and Criteria Maximum Concentration, which are 0.77 ug/L and 1.4 ug/L, respectively. Based on these data, we believe that EPA's water quality standards for mercury should be protective of juvenile mussels and glochidia, except in cases of illegal dumping, permit violations, or spills. However, impacts to mussels from mercury toxicity may be occurring in some streams. According to the National Summary Data reported by States to the EPA, 3,770 monitored waters do not meet EPA standards for mercury in the United States (*http://iaspub.epa.gov/waters10/attains_nation_cy.control?p_report_type=T*, accessed 6/28/2010). Acute mercury toxicity was determined to be the cause of extirpation of a diverse mussel fauna for a 70-mile (112-km) portion of the North Fork Holston River (Brown *et al.* 2005, pp. 1455–1457).

In addition to ammonia, agricultural sources of chemical contaminants include two broad categories that have the potential to adversely impact mussel species: nutrients and pesticides. Nutrients (such as nitrogen and phosphorus) can impact streams when their concentrations reach levels that cannot be assimilated, a condition known as over-enrichment. Nutrient over-enrichment is primarily a result of runoff from livestock farms, feedlots, and heavily fertilized row crops (Peterjohn and Correll 1984, p. 1471). Over-enriched conditions are exacerbated by low-flow conditions, such as those experienced during typical summer-season flows and that might occur with greater frequency and magnitude as a result of climate change. Bauer (1988, p. 244) found that excessive nitrogen concentrations can be detrimental to the adult freshwater pearl mussel *(Margaritifera margaritifera),* as was evident by the positive linear relationship between mortality and nitrate concentration. Also, a study of mussel lifespan and size (Bauer 1992, p. 425) showed a negative correlation between growth rate and eutrophication, and longevity was reduced as the concentration of nitrates increased. Nutrient over-enrichment can result in an increase in primary productivity, and the subsequent respiration depletes dissolved oxygen levels. This may be particularly detrimental to juvenile mussels that inhabit the interstitial spaces in the substrate where lower dissolved oxygen concentrations are more likely than on the sediment surface where adults tend to live (Sparks and Strayer 1998, pp. 132–133).

Elevated concentrations of pesticide frequently occur in streams due to pesticide runoff, overspray application to row crops, and lack of adequate riparian buffers. Agricultural pesticide applications often coincide with the reproductive and early life stages of mussel, and thus impacts to mussels due to pesticides may be increased (Bringolf *et al.* 2007a, p. 2094). Little is known regarding the impact of currently used pesticides to freshwater mussels even though some pesticides, such as glyphosate (Roundup), are used globally. Recent studies tested the toxicity of glyphosate, its formulations, and a surfactant (MON 0818) used in several glyphosate formulations, to early life stages of the fatmucket *(Lampsilis siliquoidea),* a native freshwater mussel (Bringolf *et al.* 2007a, p. 2094). Studies conducted with juvenile mussels and glochidia determined that the surfactant (MON 0818) was the most toxic of the compounds tested and that *L. siliquoidea* glochidia were the most sensitive organism tested to date (Bringolf *et al.* 2007a, p. 2094). Roundup, technical grade glyphosate isopropylamine salt, and isopropylamine were also acutely toxic to juveniles and glochidia (Bringolf *et al.* 2007a, p. 2097). The impacts of other pesticides including atrazine, chlorpyrifos, and permethrin on glochidia and juvenile life stages have also recently been studied (Bringolf *et al.* 2007b, p. 2101). This study determined that chlorpyrifos was toxic to both *L. siliquoidea* glochidia and juveniles (Bringolf *et al.* 2007b, p. 2104). The above results indicate the potential toxicity of commonly applied pesticides and the threat to mussel species as a result of the widespread use of these pesticides. All of these pesticides are commonly used throughout the range of the sheepnose and spectaclecase.

A potential, but undocumented, threat to freshwater mussel species, including sheepnose and spectaclecase, are

contaminants referred to as ''emerging contaminants'' that are being detected in aquatic ecosystems at an increasing rate. Pharmaceuticals, hormones, and other organic contaminants have been detected downstream from urban areas and livestock production (Kolpin *et al.* 2002, p. 1202). A large potential source of these emerging contaminants is wastewater being discharged through both permitted (National Pollutant Discharge Elimination System, or NPDES) and nonpermitted sites throughout the country. Permitted discharge sites are ubiquitous in watersheds with sheepnose and spectaclecase populations, providing ample opportunities for contaminants to impact the species (for example, there are more than 250 NPDES sites in the Meramec River, Missouri system, which harbors large, but declining, populations of sheepnose and spectaclecase; Roberts and Bruenderman 2000, p. 78).

The information presented in this section represents some of the threats from chemical contaminants that have been documented both in the laboratory and field and demonstrates that chemical contaminants pose a substantial threat to sheepnose and spectaclecase. This information indicates the potential for contaminants from spills that are immediately lethal to species, to chronic contaminant exposure, which results in death, reduced growth, or reduced reproduction of sheepnose and spectaclecase to contribute to declining sheepnose and spectaclecase populations.

Summary of Factor A

The decline of the freshwater mussels in the eastern United States is primarily the result of the long-lasting effects of habitat alterations such as impoundments, channelization, chemical contaminants, mining, oil and gas development, and sedimentation. Although efforts have been made to restore habitat in some areas, the long-term effects of large-scale and wide-ranging habitat modification, destruction, and curtailment will continue into the foreseeable future.

In summary, dams and impoundments are considered an imminent threat of high magnitude to the sheepnose or spectaclecase because they alter water quality and flow, impair habitats, and increase fragmentation and isolation of mussel populations. Although most impoundment and channelization of rivers and streams occurred in the past, the ongoing effects caused by such activities pose an imminent threat of high magnitude to both species because of altered habitats, sedimentation, and the subsequent transformations in biological communities that occurred due to these changes. Likewise, continued maintenance of channelized waterways adds to these threats by further increasing sedimentation and siltation. Excess sedimentation is considered an imminent threat of high magnitude to the spectaclecase and sheepnose because it can reduce feeding and respiratory efficiency of these species. Furthermore, sediments can be a vector for chemical contaminants.

Small populations of sheepnose and spectaclecase are vulnerable to the threat of detrimental chemical spills. Furthermore, exposure of mussels to low but ubiquitous concentrations of contaminants may not be immediately lethal but can reduce filtration efficiency, decrease growth and reproduction and induce behavioral changes in all life stages over time. Therefore, we conclude that chemical contamination currently represents an imminent threat of high magnitude to the sheepnose and spectaclecase.

Instream sand and gravel mining represents an imminent threat of moderate to high magnitude to both species due to the effects of water quality and habitat impairments. Coal, oil and gas mining are an imminent threat, particularly to sheepnose, because these activities can cause increases in siltation, change the hydrology, and alter water quality.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The spectaclecase and sheepnose are not commercially valuable species but may be increasingly sought by collectors as they become rarer. Although scientific collecting is not thought to represent a significant threat, unregulated collecting could adversely affect localized spectaclecase and sheepnose populations.

Mussel harvest is illegal in some States (for example, Indiana and Ohio), but regulated in others (for example, Alabama, Kentucky, Tennessee, and Wisconsin). These species may be inadvertently harvested by inexperienced commercial harvesters unfamiliar with species identification. Although illegal harvest of protected mussel beds occurs (Watters and Dunn 1995, p. 225, 247–250), commercial harvest is not known to have a significant impact on the spectaclecase and sheepnose.

On the basis of this analysis, we find that overutilization for commercial, recreational, scientific, or educational purposes is not now a threat to the spectaclecase or sheepnose in any portion of its range or likely to become a significant threat in the foreseeable future.

C. Disease or Predation

Little is known about diseases in freshwater mussels (Grizzle and Brunner 2007, p. 6). However, mussel die-offs have been documented in spectaclecase and sheepnose streams (Neves 1986, p. 9), and some researchers believe that disease may be a factor contributing to the die-offs (Buchanan 1986, p. 53; Neves 1986, p. 11). Mussel parasites include water mites, trematodes, oligochaetes, leeches, copepods, bacteria, and protozoa (Grizzle and Brunner 2007, p. 4). Generally, parasites are not suspected of being a major limiting factor (Oesch 1984, p. 6), but a recent study showed that reproductive output and physiological condition were negatively correlated with mite and trematode abundance, respectively (Gangloff *et al.* 2008, pp. 28–30). Stressors that reduce fitness may make mussels more susceptible to parasites (Butler 2007, p. 90). Furthermore, nonnative mussels may carry diseases and parasites that are potentially devastating to the native mussel fauna, including spectaclecase and sheepnose (Strayer 1999, p. 88).

The muskrat *(Ondatra zibethicus)* is cited as the most prevalent mussel predator (Convey *et al.* 1989, pp. 654–655; Hanson *et al.* 1989, pp. 15–16; Kunz 1898, p. 328). Muskrat predation may limit the recovery potential of endangered mussels or contribute to local extirpations of previously stressed populations, according to Neves and Odom (1989, p. 940), but they consider it primarily a seasonal or localized threat. Böpple and Coker (1912, p. 9) noted the occurrence of ''large piles of shells made by the muskrats'' on an island in the Clinch River, Tennessee, composed of ''about one-third'' spectaclecase shells. Predation by muskrats may be a seasonal and localized threat to spectaclecase and sheepnose populations but is probably not a significant threat rangewide.

Some species of fish feed on mussels (for example, common carp *(Cyprinus carpio),* freshwater drum *(Aplodinotus grunniens),* redear sunfish *(Lepomis microlophus))* and potentially on this species when young. Various invertebrates, such as flatworms, hydra, nonbiting midge larvae, dragonfly larvae, and crayfish, may feed on juvenile mussels (Neves 2008, pers. comm.). Although predation by naturally occurring predators is a normal aspect of the population dynamics of a healthy mussel

population, predation may amplify declines in small populations of this species. In addition, the potential now exists for the black carp *(Mylopharyngodon piceus),* a mollusk-eating Asian fish recently introduced into the waters of the United States (Strayer 1999, p. 89), to eventually disperse throughout the range of the spectaclecase and sheepnose.

The life cycle of freshwater mussels is intimately related to that of the freshwater fish they use as hosts for their parasitic glochidia. For this reason, diseases that impact populations of freshwater fishes also pose a significant threat to mussels. Viral hemorrhagic septicemia (VHS) disease has been confirmed from much of the Great Lakes and St. Lawrence River system. In June 2008, muskellunge *(Esox masquinongy)* from Clearfork Reservoir, near Mansfield, Ohio, tested positive for carrying VHS virus. This is the first known occurrence of VHS virus in the Mississippi River basin.

The VHS virus has been implicated as a mortality factor in fish kills throughout the Great Lakes region. It has been confirmed in 28 fish species, but no identified hosts for sheepnose are on the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) list of fish species susceptible to VHS (APHIS 2008, pp. 1–2). Since the host for spectaclecase is unknown, we do not know how VHS could affect reproduction for spectaclecase. If the VHS virus successfully migrates out of the Clearfork Reservoir and into the Ohio River, it could spread rapidly and cause fish kills throughout the Mississippi River basin. Few spectaclecase and sheepnose populations are currently recruiting at sustainable levels, and fish kills could further reduce encounters with hosts and potentially reduce recruitment.

In summary, disease in freshwater mollusks is poorly known and not currently considered a threat to the sheepnose or spectaclecase. Although there is no direct evidence at this time that predation is detrimentally affecting the spectaclecase or sheepnose, their small populations and limited ranges leave them vulnerable to threats of predation from natural or introduced predators. Therefore, we conclude that predation currently represents a nonimminent threat of low magnitude, but it could potentially become a significant future threat to the spectaclecase and sheepnose due to their small population sizes.

D. The Inadequacy of Existing Regulatory Mechanisms

States with extant spectaclecase and sheepnose populations prohibit the taking of mussels for scientific purposes without a State collecting permit. However, enforcement of this permit requirement can be difficult, for example, due to limited enforcement staff and the intricacies of species identification.

The level of protection that spectaclecase and sheepnose receive from State listing varies from State to State. The sheepnose is State-listed in every State that keeps such a list. Until January 1, 2011, collection of sheepnose in Pennsylvania for use as fish bait was allowed with a limit of 50 individuals per day; however, this regulation was recently changed such that collection of mussels for bait is no longer permitted (*http://www.pabulletin.com/secure/data/vol40/40–51/2402.html*). The spectaclecase is State-listed in 9 of the 10 States that harbor extant populations. Only in Tennessee is the spectaclecase not assigned conservation status, and West Virginia does not have any State-specific legislation similar to the Act.

Nonpoint-source pollution is considered a primary threat to sheepnose and spectaclecase habitat; however, current laws do not adequately protect spectaclecase and sheepnose habitat from nonpoint-source pollution, as the laws to prevent sediment entering waterways are poorly enforced. Best management practices for sediment and erosion control are often recommended or required by local ordinances for construction projects; however, compliance, monitoring, and enforcement of these recommendations are often poorly implemented. Furthermore, there are currently no requirements within the scope of Federal environmental laws to specifically consider the spectaclecase and sheepnose during Federal activities.

It is unknown if water extraction regulations sufficiently protect mussel habitat in mining areas. For instance, the Pennsylvania Department of Environmental Protection policy imposes a 20 percent average daily flow (a.d.f.) passby restriction on Marcellus Shale water withdrawals for warmwater streams and a 25 percent a.d.f. passby requirement for coldwater streams (Urban 2011, pers. comm.). The Susquehanna and Delaware River Basin Commissions have regulatory frameworks in place to monitor cumulative impacts to water withdrawals; however, there is no such mechanism in place in the Ohio River Basin (Urban 2011, pers. comm.). The effect of extracting large volumes of water to the maintenance of mussel habitat is unknown. Point source discharges within the range of the spectaclecase and sheepnose have been reduced since the inception of the Clean Water Act (33 U.S.C. 1251 *et seq.*), but this may not provide adequate protection for filter feeding organisms that can be impacted by extremely low levels of contaminants (see ''Chemical Contaminants '' discussion under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*). There is no specific information on the sensitivity of the spectaclecase and sheepnose to common industrial and municipal pollutants, and very little information on other freshwater mussels. Therefore, it appears that a lack of adequate research and data prevents existing regulations, such as the Clean Water Act (administered by the EPA and the Corps), from being fully used or effective.

The U.S. Army Corps of Engineers retains oversight authority and requires a permit for gravel-mining activities that deposit fill into streams under section 404 of the Clean Water Act. Additionally, a Corps permit is required under section 10 of the Rivers and Harbors Act (33 U.S.C. 401 *et seq.*) for navigable waterways including the lower 50 miles (80 km) of the Meramec River. However, many gravel-mining operations do not fall under these two categories.

Despite these existing regulatory mechanisms, the spectaclecase and sheepnose continue to decline due to the effects of habitat destruction, poor water quality, contaminants, and other factors. These regulatory measures have been insufficient to significantly reduce or remove the threats to the spectaclecase and sheepnose mussels. Therefore the inadequacy of existing regulatory mechanisms is an imminent threat of moderate to high magnitude to these species throughout all of their ranges.

Based on our analysis of the best available data, we have no reason to believe that the aforementioned regulations will offer adequate protection to the spectaclecase and sheepnose in the foreseeable future.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Temperature

Natural temperature regimes can be altered by impoundments, water releases from dams, industrial and municipal effluents, and changes in riparian habitat. Critical thermal limits

for survival and normal functioning of many freshwater mussel species are unknown. High temperatures can reduce dissolved oxygen concentrations in the water, which slows growth, reduces glycogen stores, impairs respiration, and may inhibit reproduction (Fuller 1974, pp. 240–241). Low temperatures can significantly delay or prevent metamorphosis (Watters and O'Dee 1999, pp. 454–455). Water temperature increases have been documented to shorten the period of glochidial encystment, reduce righting speed, increase oxygen consumption, and slow burrowing and movement responses (Bartsch *et al.* 2000, p. 237; Fuller 1974, pp. 240–241; Schwalb and Pusch 2007, pp. 264–265; Watters *et al.* 2001, p. 546). Several studies have documented the influence of temperature on the timing of aspects of mussel reproduction (for example, Allen *et al.* 2007, p. 85; Gray *et al.* 2002, p. 156; Steingraeber *et al.* 2007, pp. 303–309). Peak glochidial releases are associated with water temperature thresholds that can be thermal minimums or thermal maximums, depending on the species (Watters and O'Dee 2000, p. 136). Abnormal temperature changes may cause particular problems to mussels whose reproductive cycles may be linked to fish reproductive cycles (for example, Young and Williams 1984). Therefore, altered water temperatures is an imminent threat to sheepnose and spectaclecase with moderate to high magnitude, depending the timing of temperature changes and the thermal limits and stage in each species' development.

Climate Change

It is a widely accepted fact that changes in climate are occurring worldwide (IPCC 2007, p. 30). Understanding the effects of climate change on freshwater mussels is of crucial importance, because the extreme fragmentation of freshwater drainage systems, coupled with the limited ability of mussels to migrate, will make it particularly difficult for mussels to adjust their range in response to changes in climate (Strayer 2008, p. 30). For example, changes in temperature and precipitation can increase the likelihood of flooding or increase drought duration and intensity, resulting in direct impacts to freshwater mussels (Golladay *et al.* 2004, p. 503; Hastie *et al.* 2003, pp. 40–43). Riverine mussel distribution appears to be highly dependent on complex hydraulic characteristics (for example, Morales *et al.* 2006, pp. 669–673; Zigler *et al.* 2008, p. 358). Indirect effects of climate change may include declines in host fish stocks, sea level rise, habitat reduction, and changes in human activity in response to climate change (Hastie *et al.* 2003, pp. 43–44). Therefore, we conclude that climate change currently represents a nonimminent threat that may become a future threat of high magnitude to the spectaclecase and sheepnose due to the limited ability of their fragmented populations to migrate.

Population Fragmentation and Isolation

Most of the remaining spectaclecase and sheepnose populations are small and isolated. The patchy distributional pattern of populations in short river reaches makes them much more susceptible to extirpation from single catastrophic events, such as toxic chemical spills (Watters and Dunn 1993–94, p. 257). Furthermore, this level of isolation makes natural repopulation of any extirpated population unlikely without human intervention. Population isolation prohibits the natural interchange of genetic material between populations, and small population size reduces the reservoir of genetic diversity within populations, which can lead to inbreeding depression (Avise and Hambrick 1996, p. 461). Despite any evolutionary adaptations for rarity, habitat loss and degradation increase a species' vulnerability to extinction (Noss and Cooperrider 1994, pp. 58–62). Numerous authors (including Noss and Cooperrider 1994, pp. 58–62; Thomas 1994, p. 373) have indicated that the probability of extinction increases with decreasing habitat availability. Although changes in the environment may cause populations to fluctuate naturally, small and low-density populations are more likely to fluctuate below a minimum viable population (the minimum or threshold number of individuals needed in a population to persist in a viable state for a given interval) (Gilpin and Soule 1986, pp. 25–33; Shaffer 1981, p. 131; Shaffer and Samson 1985, pp. 148–150).

These species were widespread throughout much of the upper two-thirds of the Mississippi River system, for example, when few natural barriers existed to prevent migration (via host species) among suitable habitats. Construction of dams, however, destroyed many spectaclecase and sheepnose populations and isolated others. Recruitment reduction or failure is a potential problem for many small sheepnose populations rangewide, a potential condition exacerbated by its reduced range and increasingly isolated populations. If these trends continue, further significant declines in total sheepnose population size and consequent reduction in long-term survivability may soon become apparent.

Spectaclecase are long-lived (up to 70 years; Havlik 1994, p. 19), while sheepnose are relatively long-lived (approximately 30 years; Watters *et al.* 2009, p. 221) Therefore, it may take decades for nonreproducing populations of both species to become extinct following their isolation by, for example, the construction of a dam. The occasional discovery of relatively young spectaclecase in river reaches between impoundments indicates that some post-impoundment recruitment has occurred. The level of recruitment in these cases, however, appears to be insufficient to ensure the long-term sustainability of the spectaclecase. Small isolated populations of spectaclecase and sheepnose that may now be composed predominantly of adult specimens could be dying out slowly in the absence of recruitment, even without the other threats just described. Isolated populations usually face other threats that result in continually decreasing patches of suitable habitat.

Genetic considerations for managing imperiled mussels and for captive propagation were reviewed by Neves (1997, p. 4) and Jones *et al.* (2006, pp. 527–535), respectively. The likelihood is high that some populations of the spectaclecase and sheepnose are below the effective population size (EPS) (Soule 1980, pp. 162–164) necessary to adapt to environmental change and persist in the long term. Isolated populations eventually die out when population size drops below the EPS or threshold level of sustainability. Evidence of recruitment in many populations of these two species is scant, making recruitment reduction or outright failure suspect. These populations may be experiencing the bottleneck effect of not attaining the effective population size. Small, isolated populations below the effective size-threshold of short-lived species (most host fishes) theoretically die out within a decade or so, while below-threshold populations of long-lived species, such as the spectaclecase and sheepnose, might take decades to die out even given years of total recruitment failure. Without historical barriers to genetic interchange, small, isolated populations could be slowly expiring, a phenomenon termed the extinction debt (Tilman *et al.* 1994, pp. 65–66). Even given the totally improbable absence of anthropogenic threats, we may lose disjunct populations to below-threshold effective-population size. However,

evidence indicates that general degradation continues to decrease habitat patch size and to act insidiously in the decline of spectaclecase and sheepnose populations.

Spectaclecase and sheepnose mussels' scarcity and decreased population size makes maintaining adequate heterogeneity problematic for resource managers. Neves (1997, p. 6) warned that ''[i]f we let conservation genetics become the goal rather than the guidelines for restoring and recovering mussel populations, then we will be doomed to failure with rare species.'' Habitat alteration, not lack of genetic variability, is the driving force of population extirpation (Caro and Laurenson 1994, pp. 485–486; Neves *et al.* 1997, p. 60). Nevertheless, genetics issues should be considered in maintaining high levels of heterozygosity during spectaclecase recovery efforts. Treating disjunct occurrences of this wide-ranging species as a metapopulation would facilitate conservation management while increasing recovery options (for example, translocating adults or introducing infested hosts and propagated juveniles) to establish and maintain viable populations (Neves 1997, p. 6). Due to small population size and probable reduction of genetic diversity within populations, efforts should be made to maximize genetic heterogeneity to avoid both inbreeding (Templeton and Read 1984, p. 189) and outbreeding depression (Avise and Hamrick 1996, pp. 463–466) whenever feasible in propagation and translocation efforts (Jones *et al.* 2006, p. 529).

Fragmentation and isolation of small remaining populations of the spectaclecase and sheepnose are imminent threats of high magnitude to both species throughout all of their ranges that will continue into the foreseeable future. Further, stochastic events may play a magnified role in population extirpation when small, isolated populations are involved.

Exotic Species

Various exotic or nonnative species of aquatic organisms are firmly established in the range of the spectaclecase and sheepnose. The exotic species that poses the most significant threat to the spectaclecase and sheepnose is the zebra mussel *(Dreissena polymorpha).* Its invasion of freshwater habitats in the United States poses an imminent threat of high magnitude to mussel faunas in many regions, and species' extinctions are expected as a result of its continued spread in the eastern United States (Ricciardi *et al.* 1998, p. 615). Strayer (1999, pp. 75–80) reviewed in detail the mechanisms in which zebra mussels impact native mussels. The primary means of impact is direct fouling of the shells of live native mussels. Zebra mussels attach in large numbers to the shells of live native mussels and are implicated in the loss of entire native mussel beds. Fouling impacts include impeding locomotion (both laterally and vertically), interfering with normal valve movements, deforming valve margins, and locally depleting food resources and increasing waste products. Heavy infestations of zebra mussels on native mussels may overly stress the animals by reducing their energy stores. They may also reduce food concentrations to levels too low to support reproduction, or even survival in extreme cases.

Other ways zebra mussels may impact spectaclecase and sheepnose is through filtering their sperm and possibly glochidia from the water column, thus reducing reproductive potential. Habitat for native mussels may also be degraded by large deposits of zebra mussel pseudofeces (undigested waste material passed out of the incurrent siphon) (Vaughan 1997, p. 11). Because spectaclecase are found in pools and zebra mussel veligers (larvae) attach to hard substrates at the point at which they settle out from the water column, spectaclecase are particularly vulnerable to zebra mussel invasion. The spectaclecase's colonial tendency could allow for very large numbers to be affected by a single favorable year for zebra mussels.

Zebra mussels are established throughout the upper Mississippi, lower St. Croix, Ohio, and Tennessee Rivers, overlapping much of the current range of the spectaclecase and sheepnose. The greatest potential for present zebra mussel impacts to the spectaclecase and sheepnose appears to be in the upper Mississippi River. Kelner and Davis (2002, p. ii) stated that zebra mussels in the Mississippi River from Mississippi River Pool 4 downstream are ''extremely abundant and are decimating the native mussel communities.'' Huge numbers of dead and live zebra mussels cover the bottom of the river in some localities up to 1 to 2 inches (2.5 to 5.1 centimeters (cm)) deep (Havlik 2001a, p. 16), where they have reduced significantly the quality of the habitat with their pseudofeces (Fraley 2008b, pers. comm.). Zebra mussels likely have reduced spectaclecase and sheepnose populations in these heavily infested waters.

As zebra mussels may maintain high densities in big rivers, large tributaries, and below infested reservoirs, spectaclecase and sheepnose populations in affected areas may be significantly impacted. For example, zebra mussel densities in the Tennessee River remained low until 2002, but are now abundant enough below Wilson Dam to be measured quantitatively (Garner 2008, pers. comm.). In addition, there is long-term potential for zebra mussel invasions into other systems that currently harbor spectaclecase and sheepnose populations. Zebra mussels occur in the lower St. Croix River, one of the strongholds for spectaclecase, although it is unclear whether they are likely to spread much further upstream due to the transition from lake-like conditions to almost exclusively riverine conditions above RM 25.

The Asian clam *(Corbicula fluminea)* has spread throughout the range of the spectaclecase and sheepnose since its introduction in the mid-1900s. Asian clams compete with native mussels, especially juveniles, for food, nutrients, and space (Leff *et al.* 1990, p. 415; Neves and Widlak 1987, p. 6) and may ingest unionid sperm, glochidia, and newly metamorphosed juveniles of native mussels (Strayer 1999, p. 82; Yeager *et al.* 2000, p. 255). Dense Asian clam populations actively disturb sediments that may reduce habitat for juveniles of native mussels (Strayer 1999, p. 82).

Asian clam densities vary widely in the absence of native mussels or in patches with sparse mussel concentrations, but Asian clam density is never high in dense mussel beds, indicating that the clam is unable to successfully invade small-scale habitat patches with high unionid biomass (Vaughn and Spooner 2006, pp. 334–335). The invading clam appears to preferentially invade sites where mussels are already in decline (Strayer 1999, pp. 82–83; Vaughn and Spooner 2006, pp. 332–336) and does not appear to be a causative factor in the decline of mussels in dense beds. However, an Asian clam population that thrives in previously stressed, sparse mussel populations might exacerbate unionid imperilment through competition and impeding mussel population expansion (Vaughn and Spooner 2006, pp. 335–336). Asian clams, therefore, are considered an imminent threat of low to moderate magnitude to the spectaclecase and sheepnose.

A molluscivore (mollusk eater), the black carp *(Mylopharyngodon piceus)* is a potential threat to native mussels (Strayer 1999, p. 89); it has been introduced into North America since the 1970s. The species has been proposed for widespread use by aquaculturists to control snails, the intermediate host of a trematode (flatworm) parasite that

affects catfish in commercial culture ponds in the Southeast and lower Midwest. Black carp are known to eat clams *(Corbicula* spp.) and unionid mussels in China, in addition to snails. They are the largest of the Asian carp species, reaching more than 4 ft in length and achieving a weight in excess of 150 pounds (Nico and Williams 1996, p. 6). Foraging rates for a 4-year-old fish average 3 or 4 pounds (1.4–1.8 kg) a day, indicating that a single individual could consume 10 tons (9,072 kg) of native mollusks over its lifetime (Mississippi Interstate Cooperative Resource Association (MICRA) 2005, p. 1). In 1994, 30 black carp escaped from an aquaculture facility in Missouri during a flood. Other escapes into the wild by nonsterile black carp are likely to occur. Since black carp have not yet invaded all waters with spectaclecase and sheepnose populations, the threat of black carp is not universally imminent; however, black carp have the potential to become a threat of high magnitude once introduced into a system.

The round goby *(Neogobius melanostomus)* is another exotic fish species released into the Great Lakes that is well established and likely to spread through the Mississippi River system (Strayer 1999, pp. 87–88). This species is an aggressive competitor of similar sized benthic fishes (sculpins, darters), as well as a voracious carnivore, despite its size (less than 10 in. (25.4 cm) in length), preying on a variety of foods, including small mussels and fishes that could serve as glochidial hosts (Janssen and Jude 2001, p. 325; Strayer 1999, p. 88). Round gobies may, therefore, have important indirect effects on the spectaclecase and sheepnose through negative effects to their hosts. Similar to the black carp, the round goby are an imminent threat where they have been introduced, and have the potential to become a threat of moderate magnitude in those areas where they occur.

The invasive golden algae *(Prymnesium parvum),* when under stress, are known to give off toxins that are lethal to gill-breathing organisms (Barkoh and Fries 2010, p. 1). Golden algae contributed to the 2009 aquatic life kill that destroyed the entire Dunkard Creek mussel population in the Monongahela River basin (US EPA 2009, p. 5). In streams with elevated total dissolved solids (TDS), golden algae outcompete native algae, and once golden algae is established, it is difficult to eradicate (US EPA 2009, p. 15). Golden algae dispersal may be linked to shale gas equipment moved from contaminated streams in the southwestern United States (Urban 2011, pers. comm.). Where found, golden algae is an imminent threat of high magnitude.

Didymo *(Didymosphenia geminata)* is an invasive alga that covers the stream bottom in thick mats, smothering streambeds and adversely affecting aquatic organisms (Spaulding and Elwell 2007, pp. 5, 12, 16). Didymo has been discovered in watersheds near those occupied by sheepnose (for example, Delaware River watershed in Pennsylvania, *http://www.fish.state.pa.us/water/habitat/ans/didymo/faq_didymo.htm).*

Additional exotic species will invariably become established in the foreseeable future (Strayer 1999, pp. 88–89). Added to potential direct threats, exotic species could carry diseases and parasites that may be devastating to the native biota. Because of our ignorance of mollusk diseases and parasites, ''it is imprudent to conclude that alien diseases and parasites are unimportant'' (Strayer 1999, p. 88). Didymo is a nonimminent threat that has a potential to become a threat of high magnitude once it is introduced into a system.

Exotic species, such as those described above, are an imminent threat of moderate to high magnitude to the spectaclecase and sheepnose—a threat that is likely to increase in magnitude as these exotic species expand their occupancy within the ranges of the spectaclecase and sheepnose.

Summary of Threats

The decline of the spectaclecase and sheepnose in the eastern United States (described by Butler 2002a, entire; Butler 2002b, entire) is primarily the result of habitat loss and degradation (Neves 1991, p. 252). These losses have been well documented since the mid-19th century (Higgins 1858, p. 550). Chief among the causes of decline are impoundments, channelization, chemical contaminants, mining, and sedimentation (Neves 1991, p. 252; Neves 1993, pp. 4–6; Neves *et al.* 1997, pp. 60, 63–75; Watters 2000, pp. 262–267; Williams *et al.* 1993, pp. 7–9). These stressors have had profound impacts on sheepnose and spectaclecase populations and their habitat.

The majority of the remaining populations of the spectaclecase and sheepnose are generally small and geographically isolated (Butler 2002a, p. 27; 2002b, p. 27). The patchy distributional pattern of populations in short river reaches makes them much more susceptible to extirpation from single catastrophic events, such as toxic chemical spills (Watters and Dunn 1995, p. 257). Furthermore, this level of isolation makes natural repopulation of any extirpated population virtually impossible without human intervention. In addition, the fish host of spectaclecase is unknown; thus, propagation to reestablish the species in restored habitats and to maintain nonreproducing populations and focused conservation of its fish host are currently not possible. Although there are ongoing attempts to alleviate some of these threats at some locations, there appear to be no populations without significant threats, and many threats are without obvious or readily available solutions.

Recruitment reduction or failure is a threat for many small spectaclecase and sheepnose populations rangewide, a condition exacerbated by reduced range and increasingly isolated populations (Butler 2002a; b, p. 28). If these trends continue, further significant declines in total spectaclecase and sheepnose population size and consequent reduction in long-term viability may soon become apparent.

Various exotic species of aquatic organisms are firmly established in the range of the spectaclecase and sheepnose. The exotic species that poses the most significant threat to the spectaclecase and sheepnose is the zebra mussel. The invasion of the zebra mussel poses a serious threat to mussel faunas in many regions, and species extinctions are expected as a result of its continued spread in the eastern United States (Ricciardi *et al.* 1998, p. 618).

Determination

We carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the spectaclecase and sheepnose. Section 3(6) of the Act defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range.'' We find that the threats presented above under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range* are considered imminent threats of moderate to high magnitude to the sheepnose and spectaclecase. Similarly, threats such as climate change, temperature alterations, exotic species, and population fragmentation and isolation as discussed under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence* are considered imminent threats of moderate to high magnitude to both species. These isolated species have a limited ability to recolonize historically occupied stream and river reaches and are vulnerable to natural or human-caused changes in their stream and river habitats. Their

range curtailment, small population size, and isolation make the spectaclecase and sheepnose more vulnerable to threats such as sedimentation, disturbance of riparian corridors, changes in channel morphology, point- and nonpoint-source pollutants, urbanization, and introduced species and to stochastic events (for example, chemical spills). Threats of predation discussed in *Factor C: Disease and Predation* of this final rule currently represent a nonimminent threat of low magnitude, but it could potentially become a significant future threat to the spectaclecase and sheepnose due to their small population sizes. The magnitude of threats as described under *Factor D: The Inadequacy of Existing Regulatory Mechanisms* may vary from State to state, depending on the strength and enforcement of current regulations.

Based on our analysis, we have no information that population trends for either of the two species addressed in this final rule will improve, nor will the effects of current threats acting on the species be ameliorated in the foreseeable future. Therefore, on the basis of the best available scientific and commercial data, we are listing the spectaclecase and the sheepnose as endangered under the Act. Without the protection of the Act, these species are in danger of extinction throughout all of their ranges. This could occur within a few years, given recurring drought conditions, accidents, or other existing threats. Furthermore, because of their curtailed ranges, and immediate and ongoing significant threats to each species throughout their entire respective ranges, as described above in the five-factor analysis, we find that it is unnecessary to analyze whether there are any significant portions of ranges for each species that may warrant a different determination of status.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in public awareness and conservation by Federal, State, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against take and harm are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species, unless such a plan will not promote the conservation of the species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed, preparation of a draft and final recovery plan, and revisions to the plan as significant new information becomes available. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that determine when a species may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (comprising species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Rock Island, Illinois, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (for example, restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Listing will also require the Service to review any actions on Federal lands and activities under Federal jurisdiction that may adversely affect the two species; allow State plans to be developed under section 6 of the Act; encourage scientific investigations of efforts to enhance the propagation or survival of the animals under section 10(a)(1)(A) of the Act; and promote habitat conservation plans on non-Federal lands and activities under section 10(a)(1)(B) of the Act.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Federal agencies are required to confer with us informally on any action that is likely to jeopardize the continued existence of a proposed species. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that may affect the sheepnose and spectaclecase include, but are not limited to, the funding of, carrying out of, or the issuance of permits for reservoir construction, natural gas extraction, stream alterations, discharges, wastewater facility development, water withdrawal projects, pesticide registration, mining, and road and bridge construction.

Jeopardy Standard

Prior to and following listing and designation of critical habitat, if prudent and determinable, the Service applies an analytical framework for jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of the species. The section 7(a)(2) analysis is focused not only on these populations but also

on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the species in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area populations(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted, because of the relationship of each core area population to the survival and recovery of the species as a whole.

Section 9 Take

Section 9(a)(2) of the Act, and its implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect, or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to knowingly possess, sell, deliver, carry, transport, or ship any wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 for endangered species. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, or for incidental take in connection with otherwise lawful activities.

Our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), is to identify, to the maximum extent practicable, those activities that would or would not likely constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness as to the potential effects of this final listing on future and ongoing activities within a species' range. We believe that the following activities are unlikely to result in a violation of section 9:

(1) Existing discharges into waters supporting these species, provided these activities are carried out in accordance with existing regulations and permit requirements (for example, activities subject to sections 402, 404, and 405 of the Clean Water Act and discharges regulated under the National Pollutant Discharge Elimination System).

(2) Actions that may affect the spectaclecase or sheepnose and are authorized, funded, or carried out by a Federal agency when the action is conducted in accordance with any reasonable and prudent measures we have specified in accordance with section 7 of the Act.

(3) Development and construction activities designed and implemented under Federal, State, and local water quality regulations and implemented using approved best management practices.

(4) Existing recreational activities, such as swimming, wading, canoeing, and fishing, that are in accordance with State and local regulations, provided that if a spectaclecase or sheepnose is collected, it is immediately released, unharmed.

Activities that we believe could potentially result in take of spectaclecase or sheepnose include but are not limited to:

(1) Illegal collection or capture of the species;

(2) Unlawful destruction or alteration of the species' occupied habitat (for example, unpermitted instream dredging, channelization, or discharge of fill material);

(3) Violation of any discharge or water withdrawal permit within the species' occupied range; and

(4) Illegal discharge or dumping of toxic chemicals or other pollutants into waters supporting spectaclecase or sheepnose.

We will review other activities not identified above on a case-by-case basis to determine whether they are likely to result in a violation of section 9 of the Act. We do not consider these lists to be exhaustive and provide them as information to the public.

You should direct questions regarding whether specific activities may constitute a future violation of section 9 to the Field Supervisor of the Service's Rock Island, Illinois Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section). You may request copies of the regulations regarding listed wildlife from and address questions about prohibitions and permits to the U.S. Fish and Wildlife Service, Ecological Services Division, 5600 American Boulevard West, Suite 990, Bloomington, MN 55437 (Phone (612) 713–5350; Fax (612) 713–5292).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(I) essential to the conservation of the species, and

(II) that may require special management considerations or protection; and

(ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation is defined in section 3 of the Act as the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner seeks or requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the applicant is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when

one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

There is currently no imminent threat of take attributed to collection or vandalism under Factor B (overutilization for commercial, recreational, scientific, or educational purposes) for sheepnose and spectaclecase, and identification of critical habitat is not expected to initiate such a threat. In the absence of finding that the designation of critical habitat would increase threats to a species, if there are any benefits to a critical habitat designation, then a prudent finding is warranted. The potential benefits include: (1) Triggering consultation under section 7(a)(2) of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because the species may not be present; (2) focusing conservation activities on the most essential habitat features and areas; (3) increasing awareness of important habitat areas among State or county governments or private entities; and (4) preventing inadvertent harm to the species.

Critical habitat designation includes the identification of the physical and biological features of the habitat essential to the conservation of each species that may require special management and protection. As such, these designations will provide useful information to individuals, local and State governments, and other entities engaged in activities or long-range planning that may affect areas essential to the conservation of the species. Conservation of the spectaclecase and sheepnose and essential features of their habitats will require habitat management, protection, and restoration, which will be facilitated by disseminating information on the locations and the key physical and biological features of those habitats. In the case of spectaclecase and sheepnose, these aspects of critical habitat designation would potentially benefit the conservation of the species. Therefore, since we have determined that the designation of critical habitat will not likely increase the degree of threat to these species and may provide some measure of benefit, we find that designation of critical habitat is prudent for the spectaclecase and sheepnose.

Primary Constituent Elements

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we must consider those physical and biological features—primary constituent elements in the necessary and appropriate quantity and spatial arrangement—essential to the conservation of the species. We must also consider those areas essential to the conservation of the species that are outside the geographical area occupied by the species. Primary constituent elements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, and rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distribution of a species.

We are currently unable to identify the primary constituent elements for spectaclecase and sheepnose because information on the physical and biological features that are considered essential to the conservation of these species is not known at this time. The apparent poor viability of the species' occurrences observed in recent years indicates that current conditions are not sufficient to meet the basic biological requirements of these species in many rivers. Since spectaclecase and sheepnose have not been observed for decades in many of their historical locations, and much of the habitat in which they still persist has been drastically altered, the optimal conditions that would provide the biological or ecological requisites of these species are not known. Although we can surmise that habitat degradation from a variety of factors has contributed to the decline of these species, we do not know specifically what essential physical or biological features of that habitat are currently lacking for spectaclecase and sheepnose.

Key features of the basic life history, ecology, reproductive biology, and habitat requirements of most mussels, including spectaclecase and sheepnose, are unknown. Species-specific ecological requirements have not been determined (for example, minimum water flow and effects of particular pollutants). Population dynamics, such as species' interactions and community structure, population trends, and population size and age class structure necessary to maintain a long-term viability, have not been determined for these species. Basics of reproductive biology for these species are unknown, such as age and size at earliest maturity, reproductive longevity, and the level of recruitment needed for species survival and long-term viability. Of particular concern to the spectaclecase is the lack of known host(s) species essential for glochidia survival and reproductive success. Similarly, although recent laboratory studies have produced successful transformation of sheepnose glochidia on a few fish species, many questions remain concerning the natural interactions between the sheepnose and its known hosts. Because the host(s) for spectaclecase is unknown and little is known about the sheepnose hosts, there is a degree of uncertainty at this time as to which specific areas might be essential to the conservation of these species (for example, the host(s)'s biological needs and population sizes necessary to support mussel reproduction and population viability) and thus meet a key aspect of the definition of critical habitat. As we are unable to identify many physical and biological features essential to the conservation of spectaclecase and sheepnose, we are unable to identify areas that contain these features. Therefore, although we have determined that the designation of critical habitat is prudent for spectaclecase and sheepnose, because the biological and physical requirements of these species are not sufficiently known, we find that critical habitat for spectaclecase and sheepnose is not determinable at this time.

Required Determinations

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The rule will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the

National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this rule is available on the Internet at *http://www.regulations.gov* or upon request from the Field Supervisor, Rock Island, Illinois, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are the staff members of the Service's Rock Island and Twin Cities Field Offices (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for ''Sheepnose'' and ''Spectaclecase'' in alphabetical order under Clams to the List of Endangered and Threatened Wildlife, as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historical range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
CLAMS							
*	*	*	*	*	*	*	
Sheepnose	*Plethobasus cyphyus*	U.S.A. (AL, IL, IN, IA, KY, MN, MS, MO, OH, PA, TN, VA, WV, WI).	NA	E		NA	NA
*	*	*	*	*	*	*	
Spectaclecase	*Cumberlandia monodonta.*	U.S.A. (AL, AR, IL, IN, IA, KS, KY, MN, MO, OH, TN, VA, WV, WI).	NA	E		NA	NA
*	*	*	*	*	*	*	

* * * * *

Dated: February 28, 2012.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2012–5603 Filed 3–12–12; 8:45 am]

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