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# FEDERAL REGISTER

Vol. 77 Monday,
No. 53 March 19, 2012

Pages 15933–16130

OFFICE OF THE FEDERAL REGISTER

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

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Conference Room, Suite 700
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Washington, DC 20002

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 319

**[Docket No. APHIS–2007–0117]**

**RIN 0579–AC90**

### Importation of Wooden Handicrafts From China

*Correction*

In rule document 2012–4962 beginning on page 12437 in the issue of Thursday, March 1, 2012 make the following correction:

On page 12439, in the third column, in footnote 2, in the third line ''*https://www.ippc.int/index.php?id=13399&tx_publication_pi1*showUid]=133703&frompage=13399&type=publication&subtype=&L=0#item.*'' should read ''*https://www.ippc.int/index.php?id=13399&tx_publication_pi1[showUid]=133703&frompage=13399&type=publication&subtype=&L=0#item.*''

[FR Doc. C1–2012–4962 Filed 3–16–12; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### 7 CFR Parts 761, 762, 764, 765, and 766

**RIN 0560–AI04**

### Conservation Loan Program

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** In September 2010, the Farm Service Agency (FSA) implemented the new Conservation Loan (CL) Program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). FSA added the CL Program provisions to the existing direct and guaranteed loan regulations. The provisions provide CL program eligibility and servicing options for the direct and guaranteed loans made through the CL Program. FSA is amending the Farm Loan Programs (FLP) direct and guaranteed loan regulations for the CL Program based on public comments received on the interim rule.

**DATES:** *Effective Date:* This rule is effective May 18, 2012.

**FOR FURTHER INFORMATION CONTACT:** Connie Holman; telephone: (202) 690–0756. 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:**

#### Background

Section 5002 of the 2008 Farm Bill (Pub. L. 110–246) authorized the establishment of the CL Program by amending section 304 of the Consolidated Farm and Rural Development Act (CONACT, 7 U.S.C. 1924). CL loan funds may be used to finance the cost of carrying out a qualified conservation project. FSA published an interim rule (75 FR 54005–54016) on September 3, 2010, to add CL loan making and servicing provisions to the existing direct and guaranteed loan regulations. The regulations in 7 CFR parts 761, 762, 764, 765, and 766 were amended. Those changes to the regulation were effective on September 3, 2010.

Subsequently, on May 13, 2011, FSA published a notice in the **Federal Register** (76 FR 27986) announcing that FSA was no longer accepting direct or guaranteed applications for the CL Program because of a lack of funding. On March 7, 2012, FSA published another notice in the **Federal Register** (77 FR 13530–13531) announcing that we are now accepting guaranteed loan applications. However, due to a lack of program funding, direct CL applications are not being accepted at this time.

In this final rule, FSA addresses the comments received on the interim rule and the changes being made in response to those comments. The amended regulations will be used to service outstanding direct and guaranteed CLs and to process any new loan applications, subject to the availability of funding.

Fifteen commenters submitted comments on the interim rule during the 60-day comment period. Comments were received from the Independent Community Bankers of America, National Sustainable Agriculture Coalition, Forestry Service Division of Oklahoma Department of Agriculture Food and Forestry, Natural Resources Conservation Service (NRCS), American Farmland Trust, the general public, and FSA employees. This rule was also included in the Joint Regional Tribal Consultation Strategy facilitated by USDA in seven regional consultation meetings from November 2010 through January 2011.

The comments addressed multiple provisions of the rule. Many of the comments received during the comment period were supportive. The commenters supported many of the CL provisions such as the eligible uses for CL loan funds, the requirement for applicants to obtain an approved NRCS conservation plan, the exemption of ''test for credit'' and ''graduation'' requirements from the program, loan limits, the streamlined CL application process, and the targeting of direct and guaranteed loan funds for certain producer types.

A number of issues raised in the comments resulted in changes to the regulations. The overall changes are summarized below followed by a discussion of the individual comment issues and the responses.

#### Summary of Amendments to the Regulations

Part 761 provides the general and administrative regulations for both direct and guaranteed loans. The regulation in 7 CFR part 762 specifies requirements and procedures that apply to making and servicing Guaranteed Loans. The regulation in 7 CFR part 763 specifies the requirements and procedures for direct loan making. FSA is making several amendments to these regulations based on the comments.

FSA is making a minor amendment to the definition of ''Conservation Practice'' to coincide with the definition in NRCS regulations. FSA will add a definition of ''Forest Stewardship Management Plan,'' make a minor amendment to the definition of ''Conservation Project'' to add a provision to allow conservation

measures that are included in a Forest Stewardship Management Plan approved by the USDA Forest Service to be considered eligible uses of CL loan funds. Also, FSA is making conforming changes to the regulations to allow for the inclusion of a Forest Stewardship Management Plan.

FSA is changing the length of the repayment period to specify that guaranteed CLs may be scheduled over a repayment period not to exceed 30 years. This is a change from the interim rule, which limited the repayment term of guaranteed CLs to 20 years, the same repayment term as direct CLs making guaranteed CLs slightly more advantageous than direct CLs and thus reducing the potential competition between commercial lenders and FSA.

FSA is also clarifying the guaranteed loan restructuring requirement to state that lenders must ensure that the borrower remains in compliance with the approved conservation plan or the Forest Stewardship Management Plan.

FSA is making a change to specify that CLs made to purchase equipment or for real estate purposes of $25,000 or less may be secured by a lien on chattels. This is a change from the interim rule that required FSA to take real estate as security, regardless of the loan purpose or amount, as first priority if real estate security was available. FSA further specifies that FSA may accept the best lien obtainable on real estate, without title clearance or legal service, on loans of $25,000 or less. However, if FSA is uncertain of the record owner or debts against real estate, a title search will be required. This change reflects the reduced risk of loss with these small loans.

**Discussion of Comments and Responses**

The following provides a summary of the comments received and FSA's response, including changes we are making to the regulations based on the comments.

**Definitions**

*Comment:* FSA should acknowledge the role of Forest Stewardship Management Plans in the CL Program to clarify that Nonindustrial Private Forest (NIPF) landowners are excluded from eligibility, even though forestry practices are included in 7 CFR 762.121 and 764.231 as an authorized loan purpose or use. FSA should include a specific reference to NIPF landowners.

*Response:* FSA is amending the regulations by adding a definition in § 761.2 of ''Forest Stewardship Management Plan'' and providing that any conservation practice included in the Forest Stewardship Management Plan will be an eligible use of CL funds under §§ 762.121 and 764.131.

*Comment:* The definition of ''Conservation Practice'' should be amended to coincide with the definition in NRCS regulations.

*Response:* FSA is amending the definition in § 761.2(b) of ''Conservation Practice'' based on the NRCS regulation.

**Eligibility, Graduation, and Market Placement**

*Comment:* Regardless of Section 304 of the CONACT, special notice must be made of the exception of the test for credit, family farm, and graduation requirements for the CL Program. FSA is straying from their original purpose of providing credit to those who are unable to obtain credit through other sources.

*Response:* FSA disagrees with the comment. Section 304 of the CONACT explicitly eliminates the test for credit and does not require that a family sized farm be involved to qualify for the CL Program. By eliminating these requirements it is evident that the objective of the CL Program is to encourage all farmers to implement conservation practices and not for the program to serve as a safety net for farmers who cannot obtain credit elsewhere. No changes have been made in response to this comment.

*Comment:* FSA did not have a sufficient excuse to implement a new program that will benefit farmers beyond the traditional FSA customer base.

*Response:* Inclusion of the CL Program in the CONACT and the subsequent allotment of funds by Congress clearly demonstrates Congressional intent to have this program implemented as authorized in the legislation.

*Comment:* Direct loans should only be made to family sized farms. This would maximize the number of participants in the CL Program.

*Response:* Section 304 of the CONTACT does not limit direct loans based on the size of the farm; therefore, no change is being made to this policy.

*Comment:* Add the following statement from the interim rule preamble that ''This will facilitate timely implementation of conservation practices that would otherwise be postponed due to lack of monetary resources'' to the final rule eligibility requirements requiring that applicants ''must demonstrate to the satisfaction of the Agency that the CL is needed to facilitate the timely implementation of conservation activities that would otherwise be postponed due to lack of monetary resources.''

*Response:* The purpose of the CL Program is to enhance the environment by facilitating implementation of conservation measures. Section 304 of the CONACT explicitly eliminates the test for credit and does not require a family sized farm for the CL Program. By excluding these requirements from the qualifications for a CL, it is clear that the CL Program is to serve as an inducement for implementation of conservation practices. Requiring every applicant to demonstrate need would undermine the intended purpose of the CL Program and be in conflict with the authorizing statute. Therefore, FSA is not making this change.

*Comment:* The blanket exemption that allows CL funds to be used to support non-eligible enterprises is a mismatch, enabling non-farm facilities to qualify for a conservation loan without a conservation plan approved by a competent official.

*Response:* The intent of the CL Program is to provide loans to allow farmers to address conservation needs on their land. In the interim rule, in § 764.232, FSA included language that requires CL Program participants who operate non-eligible enterprises to also be involved in agricultural production in order to be qualified for the CL Program. Program provisions also require that CL Program participants have an NRCS approved conservation plan or Forest Stewardship Management Plan to meet eligibility requirements. This eliminates the possibility of non-farm facilities without an approved conservation plan or Forest Stewardship Management Plan qualifying for the CL Program. Therefore, FSA is not making a change in response to this comment.

*Comment:* FSA should limit the number of CLs awarded to applicants who are eligible for, and able to obtain, credit from a production credit association, a Federal Land Bank, or other cooperative or private sources.

*Response:* FSA is not making the suggested change. As authorized, the purpose of the CL Program is to encourage farmers to implement conservation measures and does not include the traditional Farm Loan Programs provision that limits eligibility to those farmers who cannot obtain credit from commercial lenders. If FSA limited the number of CLs awarded, FSA would undermine the intent of the CL provisions and purpose of the CL Program, which is to fund conservation projects.

*Comment:* In the absence of the family-farm eligibility requirement, FSA should require that non-family farm applicants have at least 75 percent of their assets involved in agricultural

production and earn at least 75 percent of their income from agricultural activities.

*Response:* The exclusion of the test for credit and family farm size as eligibility requirement for the CL Program demonstrates that the purpose of the program is to fund conservation practices. Establishing a minimum asset or income level requirement would impose restrictions that are not authorized because it could be seen as a test for credit that does not apply to the CL Program. Therefore, FSA is not making the change.

*Comment:* Do not amend 7 CFR 762.110 to specify that market placement will not be applicable to the CL Program.

*Response:* Market placement is used to assist qualified existing direct loan borrowers and new direct loan applicants in obtaining a guaranteed farm loan from a commercial lender. Utilization of the Market Placement Program means the borrower or applicant may be able to obtain credit elsewhere. The CONACT exempts CL Program from the ''credit elsewhere'' requirement. Because FSA will not be making a ''credit elsewhere'' eligibility determination, there would be no reason to determine if a CL applicant or existing CL borrower should be considered for market placement. Therefore, FSA is not making the change.

*Comment:* FSA should not have changed the ''graduation'' definition in the interim rule because the 2008 Farm Bill does not prohibit FSA from requesting CL borrowers to graduate, but rather only prohibits FSA from requiring CL borrowers to refinance. Remove the change from the regulation and make all necessary conforming changes.

*Response:* FSA will not be making the change. Section 304(g) of the CONACT exempts the CL Program from graduation requirements established in section 333(3) of the CONACT. A CL borrower does not have to agree to obtain a loan from a commercial lender; therefore, graduation does not apply to the CL Program. Prior to the interim rule, FSA's definition of graduation encompassed all FLP loans. To implement this exemption, CL had to be excluded from the definition. However, excluding CL from the graduation definition does not prohibit a CL borrower from paying the loan in full prior to the maturity date.

**Funding**

*Comment:* The final rule should make clear that CL funding is provided to FSA separately and that funds for the CL Program will not attach to funding for other FLP programs as the other FLP programs are solely aimed at farmers and ranchers who cannot obtain credit elsewhere and who are no larger than family sized farms.

*Response:* No change will be made for this comment. Each year funds are appropriated to each specific loan program. Previous appropriations bills have been worded such that funds can be transferred between programs with the Secretary's approval and Congressional notification. While this has been done in the past, it has only been done towards the end of the fiscal year and only in cases where resources will be unused and where there are shortfalls in other programs.

*Comment:* FSA should target 50 percent of direct and guaranteed CL funds for beginning and socially disadvantaged farmers, owner or tenants who use loans to convert to sustainable or organic agriculture production systems, and producers who use loans to build conservation structures or establish conservation practices to comply with highly erodible land conservation exemptions.

*Response:* FSA will not make this change. FSA is targeting 35 percent of direct and guaranteed CL funds to the priorities listed in 7 CFR 761.210, which includes all the groups listed in the comment. An additional 15 percent of direct CL funds are targeted for SDA participation rates in accordance with section 355 of the CONACT. The 15 percent is based on an estimated national average of the county wide percentages. The allocation is being kept at a national level given the small amount of funding for the Program. This gives a total of 50 percent of CL funding targeted to the various groups as specified by the 2008 Farm Bill and section 304 of the CONACT.

*Comment:* Given ''limited funding,'' a determination should be required that the conservation practice(s) would not be able to be completed without the CL loan being extended.

*Response:* FSA is not making the suggested change. Implementing eligibility restrictions on the financial condition of an operation is in contradiction to the intent of the CL Program, which is to encourage all farmers to implement beneficial conservation practices.

*Comment:* As part of FSA's effort to prioritize CL funding for beginning farmers, FSA should send CL Program informational materials to producers enrolled in the Conservation Reserve Program Transition Incentives Program.

*Response:* This is an outreach issue, and it is not necessary to make a change in the final rule. FSA will continue to utilize all available opportunities to market the CL Program.

**Application Requirements**

*Comment:* Amend 7 CFR 761.210 to require that the conservation plan demonstrate NRCS Field Office Technical Guide quality criteria for at least three resource concerns are or will be exceeded. The language in 7 CFR 761.210 establishing the priority for CL funding is ambiguous and highly problematic and the requirements for priority funding should be more explicit.

*Response:* The conservation plan on which the priority funding determination is based on is a product of NRCS. FSA recognizes the expertise of NRCS in this area and believes that NRCS is better equipped to make the determination as to whether the conservation practices being implemented constitute ''moving toward'' sustainable agriculture. FSA will, therefore, not be making the change.

**Terms**

*Comment:* There is nothing to distinguish or explain why or when a borrower would seek a guaranteed loan versus a direct loan and FSA should allow a longer term for guaranteed loans than for direct loans.

*Response:* FSA will make a change to the rule in §§ 762.124 and 762.145 to allow guaranteed CLs to be scheduled for repayment over a period not to exceed 30 years from the date of the note or a shorter period if necessary to assure that the loan will be adequately secured. The change will make guaranteed CLs slightly more advantageous and thereby reduce the potential competition between commercial lenders and FSA.

**Streamlined CLs**

*Comment:* The USDA Economic Research Service (ERS) reported that farm business' debt-to-asset ratio was expected to decline to 11.2 percent and debt-to-equity was expected to decline to 12.5 percent. FSA's 40 percent debt-to-asset ratio is too high and FSA should be more flexible and reserve the 40 percent ratio for family sized farms while requiring a lower ratio for larger than family sized farms.

*Response:* The 11.2 percent debt to asset ratio (D/A) mentioned in the comment represents all US farm debt divided by all US farm assets and is not a true representation of the median US farm's D/A ratio. A University of Minnesota study showed that 39 percent of Minnesota farms had a D/A ratio of

greater than 60 percent. ERS defines a favorable financial position as positive cash flow with D/A less than or equal to 40 percent and marginal solvency as positive cash flow with D/A of greater than 40 percent, making 40 percent a reasonable parameter. FSA believes that by tying D/A ratio to the size of the farm could increase confusion and present more instances for inconsistency in interpretation. Since the 40 percent D/A ratio discussed is simply the threshold permitting reduced loan application paperwork and not for loan qualification, FSA is not making the change.

*Comment:* For streamlined CL eligibility, FSA should require not only a majority of the members of an entity have a FICO score of 700, but that those members represent a majority of the ownership of the entity. This would ensure that these members would be the individuals truly responsible for key decision making for the entity and could be the ones making the important decisions regarding repayment of the loan.

*Response:* FSA will not make this change. Members with the majority ownership of the entity are not always the decision makers, and there is no way to insure that in every case the decision makers of the entity are also the members that have the required FICO score. Tying FICO scores to the percentage of ownership could increase confusion and present more instances for inconsistency in interpretation.

**Direct CLs**

*Comment:* FSA should consider adding a requirement that an applicant for a direct loan must provide evidence that they cannot complete the conservation practice with a guaranteed loan in lieu of a direct loan.

*Response:* Section 304(g) of the CONACT explicitly exempts the program in FSA from the requirement of ''credit elsewhere.'' By excluding this requirement from the qualifications for a CL, Congress clearly signaled the intent that the CL Program serves as an inducement for implementation of conservation practices. Adopting this suggestion would undermine the purpose of the CL Program, so FSA will not make the change.

*Comment:* If the CL funding is being awarded to a project for which Federal, State, or local permits must be obtained, then FSA should not release CL funding until the applicant has secured all necessary permits.

*Response:* This change is not necessary. FSA regulation 7 CFR 1940.309 deals with environmental due diligence and addresses the requirement for applicants to obtain permits when required by local and State laws. In addition, 7 CFR 761.10(c)(2) requires that applicants obtain required State and local construction approvals and permits prior to loan closing when developing real estate.

**Guaranteed CLs**

*Comment:* The guarantee to lenders should be 90 percent because otherwise there would be diminishing incentives to utilize the guaranteed loan program and greater incentives to utilize the government funded direct loan program.

*Response:* FSA will not make this change since Section 304(e) of the CONACT mandates the 75 percent guarantee.

*Comment:* The requirement that lenders certify that a CL borrower is in compliance with the conservation plan when restructuring should be modified to require ''the lender or appropriate USDA office at the discretion of the lender.'' USDA officials may be in the best position to determine compliance with conservation plans. Also, USDA officials should be required to make the determination in an expedited manner.

*Response:* FSA reworded the text in § 762.145 to provide that for CLs the lender will ''ensure that the borrower is maintaining the practice for which the CL was made,'' rather than ''certify'' the borrower is in compliance with the approved conservation or Forest Stewardship Management Plan. This also will be included in the FSA administrative handbook to clarify the requirement.

**Security and Title Clearance**

*Comment:* As published in the interim rule, 7 CFR 764.235 was added to provide that direct CLs will be secured in accordance with 7 CFR 764.103 through 764.106. Furthermore, CLs are required to be secured first by a lien on real estate, if available and then by chattels if determined acceptable by FSA. The requirement to require real estate as security priority is too restrictive when the loan funds will be used to purchase chattels or for lower loan amounts. The requirement of taking real estate as priority also increases the closing cost expenses to borrowers when the loan amount may be relatively small and consideration should be given to the fact that many of these loans will receive significant cost share payments from NRCS that will result in very small net loan amounts. Security requirements could be met by either real estate or chattels depending on the use of loan funds much like FSA's direct Operating Loan (OL). Loans up to $25,000 should be secured first by chattels, with real estate taken as additional security if available.

*Response:* FSA will make changes to this security requirement in § 764.235 based on this comment. A lien on chattel security will be acceptable for all loans made to purchase equipment or for loans of less than $25,000. A lien on real estate will still be required for all loans of $25,000 or greater when funds are used for real estate purposes.

*Comment:* For CLs of $25,000 or less, FSA should be able to accept the best lien obtainable without title clearance or legal service.

*Response:* FSA will make the change in § 764.235 to provide that for CLs of $25,000 or less, when real estate is taken as security only a certification of ownership in real estate is required. For loans greater than $25,000 title clearance will still be required. As a result, real estate title clearance requirements for CLs will mirror that of the Emergency Loan Program.

**General Program**

*Comment:* FSA should work with NRCS to ensure that producers seeking assistance for implementing conservation projects are fully aware of the availability of the funds through FSA's CL Program.

*Response:* FSA is presently working with NRCS to market the CL Program and will continue to utilize all available opportunities to market the CL Program.

*Comment:* There is no need to establish a new program. FSA should simply revise the existing Farm Ownership (FO) regulations to add projects eligible to be financed with FO funds.

*Response:* While both FO and Farm Operating (OL) loan funds may be used for conservations purposes, the requirements for these programs are more restrictive than those authorized for the CL Program. FO and OL eligibility require that applicants be unable to obtain sufficient credit elsewhere at reasonable rates and terms and be the operator of a family farm after the loan is closed. Furthermore, recipients of FO and OL direct loan assistance must agree to graduate when credit is available from other sources at reasonable rates and terms. Revising the existing FO or OL regulations would eliminate the accessibility to credit for conservation projects for FSA's non-traditional customers and, therefore, undermine the purpose of the CL Program. FSA is not making this change.

*Comment:* FSA should have issued the rule as a proposed rule instead of an interim rule. The objective of the CL Program did not necessitate an interim

rule implementing the program immediately in lieu of a proposed rule.

*Response:* Many farmers who need and want to implement conservation measures on their land, often do not have the ''up front'' funds available to pay out-of-pocket costs not covered by many USDA conservation programs that provide only cost share assistance after the project is completed. While these conservation projects are environmentally valuable, they often contribute very little to the economic productivity of the farming operation providing little incentive for private sector lending institutions to provide financing. This often means implementation of vital conservation measures must be postponed. This is particularly true for farmers in the livestock sector who often experience dramatic swings in profitability but may also have the most critical need to implement conservation practices. In keeping with the Presidential initiatives such as ''A 21st Century Strategy for America's Great Outdoors,'' USDA determined that there was good cause to announce the new Conservation Loan and Loan Guarantee Program by publishing an interim rule that became effective immediately upon publication to allow FSA to make loans with fiscal year 2010 funds. By implementing the CL and Loan Guarantee Program this way FSA allowed the public the opportunity to comment and was also able to fund several conservation projects with fiscal year 2010 funds.

**Executive Order 12866 and 13563**

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 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 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866 and, therefore, OMB was not required to review this final rule.

**Environmental Evaluation**

The requirements found in 7 CFR part 1940, subpart G, must be met for the CL Program consistent with the existing direct and guaranteed loan regulations.

**Executive Order 12372**

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

**Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform.'' This rule preempts State and local laws, regulations, or policies that are in conflict with this rule. This rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, all administrative remedies in accordance with 7 CFR parts 11 and 780 must be exhausted.

**Executive Order 13132**

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

**Executive Order 13175**

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' This Executive Order imposes requirements on the development of regulatory policies that have tribal implications or preempt tribal laws. The USDA Office of Tribal Relations has concluded that the policies contained in this rule do not have Tribal implications that preempt Tribal law. This rule was included in the Joint Regional Consultation Strategy facilitated by USDA from November 2010 through January 2011. This consolidated consultation efforts of 70 rules from the 2008 Farm Bill. USDA sent senior level agency staff to seven regional locations and consulted with Tribal leadership in each region on the rules. Once consultation meetings were completed, USDA analyzed the feedback and incorporated any appropriate changes into the regulations through rulemaking procedures. There were no comments about this rulemaking during the Tribal Consultation.

USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objective of the rule. This rule contains no Federal mandates as defined by Title II of UMRA for State, local, or Tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

**Federal Assistance Programs**

The changes in this rule affect the following FSA program as listed in the Catalog of Federal Domestic Assistance:

10.099 Conservation Loans

**Paperwork Reduction Act**

This final rule requires no changes or adds new collection to the currently approved information collections by OMB under the control numbers of 0560–0155, 0560–0233, 0560–0236, 0560–0237, 0560–0238, and 0560–0230.

**E-Government Act Compliance**

FSA is committed to complying with the E–Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**List of Subjects**

*7 CFR Part 761*

Loan programs-Agriculture.

*7 CFR Part 762*

Agriculture, Credit, Loan programs-Agriculture.

*7 CFR Part 764*

Agriculture, Credit, Loan programs-Agriculture.

*7 CFR Part 765*

Agriculture, Credit, Loan programs-Agriculture.

*7 CFR Part 766*

Agriculture, Agricultural commodities, Credit, Livestock, Loan programs –Agriculture.

Accordingly, the interim rule amending 7 CFR parts 761, 762, 764, 765, and 766, which was published at 75 FR 54005–54016 on September 3, 2010, is adopted as a final rule with the following changes:

## PART 761—FARM LOAN PROGRAMS; GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 2. Amend § 761.2(b) as follows:
■ a. Revise the definitions of ''conservation practice'' and ''conservation project'' to read as set forth below, and
■ b. Add the definition, in alphabetical order, for ''Forest Stewardship Management Plan'' to read as set forth below.

**§ 761.2 Abbreviations and definitions.**

* * * * *

(b) * * *

*Conservation practice* means a specific treatment, such as a structural or vegetative measure, or management technique, commonly used to meet specific needs in planning and implementing conservation, for which standards and specifications have been developed. Conservation practices are contained in the appropriate NRCS Field Office Technical Guide (FOTG), which is based on the National Handbook of Conservation Practices (NHCP).

*Conservation project* means conservation measures that address provisions of a conservation plan or Forest Stewardship Management Plan.

* * * * *

*Forest Stewardship Management Plan* means a property-specific, long-term, multi-resource plan that addresses private landowner objectives while recommending a set and schedule of management practices designed to achieve a desired future forest condition developed and approved through the USDA Forest Service or its agent.

* * * * *

## PART 762—GUARANTEED FARM LOANS

■ 3. The authority citation for part 762 continues to read as follows:

**Authority:** 5 U.S.C. 301, and 7 U.S.C. 1989.

■ 4. Revise § 762.110(a)(1)(vii) and (c)(3) to read as follows:

**§ 762.110 Loan application.**

(a) * * *

(1) * * *

(vii) For CL guarantees, a copy of the conservation plan or Forest Stewardship Management Plan;

* * * * *

(c) * * *

(3) For CL guarantees, a copy of the conservation plan or Forest Stewardship Management Plan;

* * * * *

■ 5. Revise § 762.121(c) introductory text to read as follows:

**§ 762.121 Loan purposes.**

* * * * *

(c) *CL purposes.* Loan funds disbursed under a CL guarantee may be used for any conservation activities included in a conservation plan or Forestry Stewardship Management Plan including, but not limited to:

* * * * *

■ 6. Revise § 762.124(d) to read as follows:

**§ 762.124 Interest rates, terms, charges, and fees.**

* * * * *

(d) *CL terms.* Each loan must be scheduled for repayment over a period not to exceed 30 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

* * * * *

■ 7. Amend § 762.145 as follows:
■ a. Revise paragraph (b)(10) to read as set forth below, and
■ b. Revise the second sentence of paragraph (c)(1)(iii) to read as set forth below.

**§ 762.145 Restructuring guaranteed loans.**

* * * * *

(b) * * *

(10) For CL, the lender must ensure that the borrower is maintaining the practice for which the CL was made.

(c) * * *

(1) * * *

(iii) * * * The maturity date cannot exceed 30 years from the date of the original note.

* * * * *

## PART 764—DIRECT LOAN MAKING

■ 8. The authority citation for part 764 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 9. Revise § 764.51(b)(15) to read as follows:

**§ 764.51 Loan application.**

* * * * *

(b) * * *

(15) For CL only, a conservation plan or Forest Stewardship Management Plan as defined in § 761.2 of this chapter; and

* * * * *

■ 10. Revise § 764.231(a) introductory text to read as follows:

**§ 764.231 Conservation loan uses.**

(a) CL funds may be used for any conservation activities included in a conservation or Forestry Service Stewardship Management Plan, including but not limited to:

* * * * *

■ 11. Revise § 764.235 to read as follows:

**§ 764.235 Security requirements.**

(a) The loan must be secured in accordance with requirements established in §§ 764.103 through 764.106.

(b) Loans to purchase chattels will be secured by a first lien on chattels purchased with loan funds. Real estate may be taken as additional security if needed.

(c) Loans of $25,000 of less for real estate purposes will be secured in the following order of priority:

(1) By a lien on chattels determined acceptable by the Agency, and then

(2) By a lien on real estate, if available and necessary. When real estate is taken as security a certification of ownership in real estate is required. Certification of ownership may be in the form of an affidavit that is signed by the applicant, names all of the record owners of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the Agency is uncertain of the record owner or debts against the real estate security, a tile search is required.

(d) Loans greater than $25,000 for real estate purposes will be secured in the following order of priority:

(1) By a lien on real estate, if available, and then

(2) By a lien on chattels, if needed and determined acceptable by the Agency.

(e) For loans greater than $25,000 title clearance is required when real estate is taken as security.

■ 12. Revise § 764.402(d)(1)(ii) to read as follows:

**§ 764.402 Loan closing.**

* * * * *

(d) * * *

(1) * * *

(ii) As provided in § 764.235 for CLs and § 764.355 for EMs;

* * * * *

Signed on March 12, 2012.

**Carolyn B. Cooksie,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 2012–6558 Filed 3–16–12; 8:45 am]

**BILLING CODE 3410–05–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27023; Directorate Identifier 98–ANE–47–AD; Amendment 39–16971; AD 2012–04–15]**

**RIN 2120–AA64**

## Airworthiness Directives; Pratt & Whitney Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for all Pratt & Whitney (PW) JT9D series turbofan engines. That AD currently requires revisions to the Airworthiness Limitations Section (ALS) of the manufacturer's Instructions for Continued Airworthiness (ICA) to include required enhanced inspection of selected critical life-limited parts at each piece-part opportunity. This new AD requires additional revisions to the JT9D series engines ALS sections of the manufacturer's ICA. This AD was prompted by the need to require enhanced inspection of selected critical life-limited parts of JT9D series engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

**DATES:** This AD is effective April 23, 2012.

**ADDRESSES:**

**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:** Ian Dargin, Aerospace Engineer, Engine & Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7178; fax: 781–238–7199; email: *ian.dargin@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2007–05–17, Amendment 39–14978 (72 FR 10350, March 8, 2007). That AD applies to the specified products. That NPRM published in the **Federal Register** on November 22, 2011 (76 FR 72130). That NPRM proposed to continue to require revisions to the ALS of the manufacturer's ICA to include required enhanced inspection of selected critical life-limited parts at each piece-part opportunity. That NPRM also proposed to require additional revisions to the JT9D series engines ALS sections of the manufacturer's ICA.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM.

**Conclusion**

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed.

**Costs of Compliance**

We estimate that 438 JT9D series engines are installed on airplanes of U.S. registry and will be affected by this AD. We also estimate that about 4 work hours per engine are needed to perform the actions, and that the average labor rate is $85 per work hour. Since this is an added inspection requirement that will be part of the normal maintenance cycle, no additional parts costs are involved. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $148,920.

**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 removing airworthiness directive (AD) 2007–05–17, Amendment 39–14978 (72 FR 10350, March 8, 2007) and adding the following new AD:

**2012–04–15 Pratt & Whitney:** Amendment 39–16971; Docket No. FAA–2007–27023; Directorate Identifier 98–ANE–47–AD.

**(a) Effective Date**

This AD is effective April 23, 2012.

**(b) Affected ADs**

This AD supersedes AD 2007–05–17, Amendment 39–14978 (72 FR 10350, March 8, 2007).

**(c) Applicability**

This AD applies to Pratt & Whitney (PW) JT9D–3A, –7, –7A, –7H, –7AH, –7F, –7J, –20J, –59A, –70A, –7Q, –7Q3, –7R4D, –7R4D1, –7R4E, –7R4E1, –7R4E4, –7R4G2, and –7R4H1 series turbofan engines.

**(d) Unsafe Condition**

This AD results from the need to require enhanced inspection of selected critical life-limited parts of JT9D series turbofan engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

**(e) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(f) Inspections**

Within the next 30 days after the effective date of this AD, add the following section to the Airworthiness Limitations Section (ALS) of your copy of the manufacturer's Instructions for Continued Airworthiness (ICA) and, for air carrier operations, to your continuous airworthiness air carrier maintenance program:

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Mandatory Inspections

(1) Inspect the following life-limited parts at each piece-part opportunity in accordance with the instructions provided in the applicable manual provisions:

| Engine Model | Engine Manual Part Number (P/N) | Part Nomenclature | Inspect per Manual Section | Inspection/ Check |
|---|---|---|---|---|
| 3A/7/7A/7AH/7F/7H/7J/20/ 20J | *646028 (or the equivalent customized versions, 770407 and 770408) | All Fan Hubs | 72-31-04 | Inspection-02 |
| | | All HPC Stage 5 – 15 Disks and Rear Compressor Drive Turbine Shafts | 72-35-00 | Inspection-03 |
| | | All HPT Stage 1-2 Disks and Hubs | 72-51-00 | Inspection-03 |
| | | **All HPT Stage 1 Disk Web Cooling Holes | 72-51-02 | Inspection - 06 |
| | | All HPT Stage 2 Disk Web Tie rod Holes | 72-51-02 | Inspection-05 |
| | | All LPT Stage 3 – 6 Disks and Hubs | 72-52-00 | Inspection-03 |
| 59A/70A | 754459 | All Fan Hubs | 72-31-00 | Check-00 |
| | | All HPC Stage 5 – 15 Disks and Rear Compressor Drive Turbine Shafts | 72-35-00 | Check-00 |
| | | All HPT Stage 1-2 Disks and Hubs | 72-51-00 | Check-03 |
| | | All HPT Stage 1 Disk Web Cooling Holes | 72-51-02 | Check-03 |
| | | **All HPT Stage 2 Disk Tie rod and Web Cooling Holes | 72-51-02 | Check-04 |
| | | All LPT Stage 3 – 6 Disks and Hubs | 72-52-00 | Check-03 |
| 7Q/7Q3 | 777210 | All Fan Hubs | 72-31-00 | Inspection-03 |
| | | All HPC Stage 5 – 15 Disks and Rear Compressor Drive Turbine Shafts | 72-35-00 | Inspection-03 |
| | | All HPT Stage 1-2 Disks and Hubs | 72-51-00 | Inspection-03 Inspection-03 |
| | | All HPT Stage 1 Disk Web Cooling Holes | 72-51-06 | |
| | | **All HPT Stage 2 Disk Tie rod and Web Cooling Holes | 72-51-07 | Inspection-03 |
| | | All LPT Stage 3 – 6 Disks and Hubs | 72-52-00 | Inspection-03 |

| Engine Model | Engine Manual Part Number (P/N) | Part Nomenclature | Inspect per Manual Section | Inspection/ Check |
|---|---|---|---|---|
| 7R4 ALL | 785058, 785059, and 789328 | All Fan Hubs | 72-31-00 | Inspection/Check-03 |
| | | **All Fan Hub Slots | 72-31-01 | Inspection/Check-02 |
| | | All HPC Stage 5 – 15 Disks and Rear Compressor Drive Turbine Shafts | 72-35-00 | Inspection/Check 03 |
| | | All HPT Stage 1-2 Disks and Hubs | 72-51-00 | Inspection/Check 03 |
| | | All LPT Stage 3 – 6 Disks and Hubs | 72-52-00 | Inspection/Check 03 |
| | | **All HPT Stage 2 Disk Tie rod and Web Cooling Holes | 72-51-07 | Inspection/Check-02 |
| 7R4D/D1/E/E1 | 785058 and 785059 | All HPT Stage 1 Disk Web Cooling Holes | 72-51-06 | Inspection/Check-02 |
| | | **All HPT Stage 2 Disk Tie rod and Web Cooling Holes | 72-51-07 | Inspection/Check-02 |

* P/N 770407 and 770408 are customized versions of P/N 646028 engine manual.
** Two asterisks identify the part nomenclatures and inspections added to the table.

(2) For the purposes of these mandatory inspections, piece-part opportunity means:

(i) The part is considered completely disassembled when disassembly is in accordance with the disassembly instructions in the manufacturer's engine shop manual; and

(ii) The part has accumulated more than 100 cycles-in-service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

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(g) Except as provided in paragraph (h) of this AD, and notwithstanding contrary provisions in section 43.16 of the Code of Federal Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the ALS of the manufacturer's ICA.

**(h) Alternative Methods of Compliance (AMOC)**

(1) You must perform these mandatory inspections using the ALS of the ICA and the applicable Engine Manual, unless you receive approval to use an AMOC under paragraph (h)(2) of this AD. Section 43.16 of 14 CFR may not be used to approve AMOCs or adjustments to the times in which these inspections must be performed.

(2) The Manager, Engine Certification Office, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

**(i) Maintaining Records of the Mandatory Inspections**

(1) You have met the requirements of this AD when you revise your copy of the ALS of the manufacturer's ICA as specified in paragraph (f) of this AD. For air carriers

operating under part 121 of 14 CFR, you have met the requirements of this AD when you modify your continuous airworthiness air carrier maintenance program as specified in paragraph (f) of this AD. You do not need to record each piece-part inspection as compliance to this AD, but you must maintain records of those inspections according to the regulations governing your operation. For air carriers operating under part 121, you may use either the system established to comply with section 121.369 or an alternative accepted by your principal maintenance inspector if that alternative:

(i) Includes a method for preserving and retrieving the records of the inspections resulting from this AD;

(ii) Meets the requirements of section 121.369(c); and

(iii) Maintains the records either indefinitely or until the work is repeated.

(2) These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the ALS of the manufacturer's ICA as specified in paragraph (f) of this AD. These record keeping requirements do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

**(j) Related Information**

For more information about this AD, contact Ian Dargin, Aerospace Engineer, Engine & Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7178; fax: 781–238–7199; email: *ian.dargin@faa.gov.*

**(k) Material Incorporated by Reference**

None.

Issued in Burlington, Massachusetts, on February 22, 2012.

**Peter A. White,**

*Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2012–6504 Filed 3–16–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

## U.S. Customs and Border Protection

## DEPARTMENT OF THE TREASURY

## 19 CFR Parts 10, 24, 162, 163, and 178

**[USCBP–2012–0007; CBP Dec. 12–03]**

**RIN 1515–AD86**

## United States-Korea Free Trade Agreement

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Interim regulations; solicitation of comments.

**SUMMARY:** This rule amends the Customs and Border Protection (CBP) regulations on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the United States-Korea Free Trade Agreement.

**DATES:** Effective March 15, 2012; comments must be received by May 18, 2012.

**ADDRESSES:** You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2012–007.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

**FOR FURTHER INFORMATION CONTACT:**

*Textile Operational Aspects:* Nancy Mondich, Trade Policy and Programs, Office of International Trade, (202) 863–6524.

*Other Operational Aspects:* Katrina Chang, Trade Policy and Programs, Office of International Trade, (202) 863–6532.

*Legal Aspects:* Yuliya A. Gulis, Regulations and Rulings, Office of International Trade, (202) 325–0042.

**SUPPLEMENTARY INFORMATION:**

### Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP in developing these regulations will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

### Background

On June 30, 2007, the United States and the Republic of Korea (hereinafter ''Korea'') signed the United States-Korea Free Trade Agreement (hereinafter ''UKFTA'' or the ''Agreement''). On December 3, 2010, the United States and Korea concluded new agreements, reflected in letters signed on February 10, 2011 that provide new market access and level the playing field for U.S. auto manufacturers and workers. The stated objectives of the UKFTA include: Strengthening close economic relations between the United States and Korea; creating an expanded and secure market for goods and services in the United States and Korea and a stable and predictable environment for investment, thus enhancing the competitiveness of U.S. and Korean firms in global markets; raising living standards, promoting economic growth and stability; creating new employment opportunities, and improving the general welfare by liberalizing and expanding trade and investment between the United States and Korea; establishing clear and mutually advantageous rules governing the two countries' trade and investment and reducing or eliminating the barriers to trade and investment between the United States and Korea; not according foreign investors greater substantive rights with respect to investment protections than domestic investors under domestic law where, as in the United States, protections of investor rights under domestic law equal or exceed those set forth in this Agreement; contributing to the harmonious development and expansion of world trade by removing obstacles to trade through the creation of a free trade area and avoiding new barriers to trade or investment between the territories of the United States and Korea that could reduce the benefits of this Agreement; strengthening the development and enforcement of labor and environmental laws and policies, promoting basic workers' rights and

sustainable development, and implementing this Agreement in a manner consistent with environmental protection and conservation; observing the Parties' respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization* and other multilateral, regional, and bilateral agreements and arrangements to which they are both parties; and furthering the economic leadership of the United States and Korea in the Asia Pacific region, in particular by seeking to reduce barriers to trade and investment in the region.

The provisions of the FTA were approved by the United States with the enactment on October 21, 2011, of the United States-Korea Free Trade Agreement Implementation Act (the ''Act''), Public Law 112–41, 125 Stat. 428 (19 U.S.C. 3805, note). Sections 103(b) and 208 of the Act require that regulations be prescribed as necessary to implement the provisions of the UKFTA.

On March 6, 2012, the President signed Proclamation 8783 to implement the provisions of the UKFTA for the United States. The Proclamation, which was published in the **Federal Register** on March 9, 2012 (77 FR 14265) modified the Harmonized Tariff Schedule of the United States (''HTSUS'') as set forth in Annexes I and II of Publication No. 4308 of the U.S. International Trade Commission entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Korea Free Trade Agreement''. The modifications to the HTSUS included the addition of new General Note 33, incorporating the relevant UKFTA rules of origin as set forth in the Act, and the insertion throughout the HTSUS of the preferential duty rates applicable to individual products under the UKFTA where the special program indicator ''KR'' appears in parenthesis in the ''Special'' rate of duty subcolumn. The modifications to the HTSUS also included a new Subchapter XX to Chapter 99 to provide for temporary tariff-rate quotas and applicable safeguards implemented by the UKFTA.

U.S. Customs and Border Protection (''CBP'') is responsible for administering the provisions of the UKFTA and the Act that relate to the importation of goods into the United States from Korea.

**Customs-Related UKFTA Provisions**

Those customs-related UKFTA provisions which require implementation through regulation as called for in § 208 of the Act include certain tariff and non-tariff provisions within Chapter One (Initial Provisions and Definitions), Chapter Two (National Treatment and Market Access for Goods), Chapter Four (Textiles and Apparel), Chapter Six (Rules of Origin and Origin Procedures), and Chapter Seven (Customs Administration and Trade Facilitation).

Certain general definitions set forth in Chapter One of the UKFTA and §§ 3 and 202(n) of the Act have been incorporated into the UKFTA implementing regulations. These regulations also implement Article 2.6 (Goods Re-entered after Repair or Alteration) of the UKFTA.

Chapter Four of the FTA sets forth provisions relating to trade in textile and apparel goods between Korea and the United States. The provisions within Chapter Four that require regulatory action by CBP include Article 4.2 (Rules of Origin and Related Matters), Article 4.3 (Customs Cooperation for Textile or Apparel Goods), and Article 4.5 (Definitions).

Chapter Six of the UKFTA sets forth the rules for determining whether an imported good is an originating good of the United States or Korea and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment under the UKFTA as specified in the Agreement and the HTSUS. The basic rules of origin in Section A of Chapter Six are set forth in General Note 33, HTSUS.

Under Article 6.1 of Chapter Six and § 202(b) of the Act, originating goods may be grouped in three broad categories: (1) Goods that are wholly obtained or produced entirely in the territory of one or both of the Parties; (2) goods that are produced entirely in the territory of one or both of the Parties and that satisfy the product-specific rules of origin in UKFTA Annex 6–A (Specific Rules of Origin; change in tariff classification requirement and/or regional value content requirement) or Annex 4–A (Specific Rules of Origin for Textile or Apparel Goods) and all other applicable requirements of Chapter Six; and (3) goods that are produced entirely in the territory of one or both of the Parties exclusively from originating materials. Article 6.2 and § 202(c) of the Act set forth the methods for calculating the regional value content of a good. Articles 6.3 and 6.4 as well as § 202(d) of the Act set forth the rules for determining the value of materials for purposes of calculating the regional value content of a good. Article 6.5 and § 202(e) of the Act provide that production that takes place in the territory of one or both of the Parties may be accumulated such that, provided other requirements are met, the resulting good is considered originating. Article 6.6 and § 202(f) of the Act provide the *de minimis* criterion. The remaining Articles within Section A of Chapter Six consist of additional sub-rules, applicable to the originating good concept, involving fungible goods and materials, accessories, spare parts, and tools, sets of goods, packaging materials and containers for retail sale, packing materials and containers for shipment, indirect materials, transit and transshipment, and consultation and modifications. All Articles within Section A are reflected in the UKFTA implementing regulations, except for Article 6.14 (Consultation and Modifications).

Section B of Chapter Six sets forth procedures that apply under the UKFTA in regard to claims for preferential tariff treatment. Specifically, Section B includes provisions concerning claims for preferential tariff treatment, waiver of certification or other information, recordkeeping requirements, verification of preference claims, obligations relating to importations and exportations, common guidelines, and definitions of terms used within the context of the rules of origin. All Articles within Section B, except for Article 6.21 (Common Guidelines) are reflected in these implementing regulations.

Chapter Seven sets forth operational provisions related to customs administration and trade facilitation under the UKFTA. Article 7.9, concerning the general application of penalties to UKFTA transactions, is the only provision within Chapter Seven that is reflected in the UKFTA implementing regulations.

**Placement of CBP Implementing Regulations**

In order to provide transparency and facilitate their use, the majority of the UKFTA implementing regulations set forth in this document have been included within Subpart R in Part 10 of the CBP regulations (19 CFR part 10). However, in those cases in which UKFTA implementation is more appropriate in the context of an existing regulatory provision, the UKFTA regulatory text has been incorporated in an existing Part within the CBP regulations. In addition, this document sets forth several cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new UKFTA implementing regulations. The regulatory changes are discussed below in the order in which they appear in this document.

**Discussion of Amendments**

*Part 10*

Section 10.31(f) concerns temporary importations under bond. It is amended by adding references to certain goods originating in Korea for which, like goods originating in Canada, Mexico, Singapore, Chile, Morocco, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, or Peru, no bond or other security will be required when imported temporarily for prescribed uses. The provisions of UKFTA Article 2.5 (Temporary Admission of Goods) are already reflected in existing temporary importation bond or other provisions contained in Part 10 of the CBP regulations and in Chapter 98 of the HTSUS.

*Part 10, Subpart R*

General Provisions

Section 10.1001 outlines the scope of Subpart R, Part 10 of the CBP regulations. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart R, Part 10 are in addition to general administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart R, Part 10 are in addition to the basic entry requirements contained in Parts 141–143 of the CBP regulations.

Section 10.1002 sets forth definitions of common terms used in multiple contexts or places within Subpart R, Part 10. Although the majority of the definitions in this section are based on definitions contained in Articles 1.4 and 6.22 as well as Annexes 4–A and 6–A of the UKFTA, and § 3 of the Act, other definitions have also been included to clarify the application of the regulatory texts. Additional definitions that apply in a more limited Subpart R, Part 10 context are set forth elsewhere with the substantive provisions to which they relate.

Import Requirements

Section 10.1003 sets forth the procedure for claiming UKFTA preferential tariff treatment at the time of entry and, as provided in UKFTA Article 6.15.1, states that an importer may make a claim for UKFTA preferential tariff treatment based on a certification by the importer, exporter, or producer or the importer's knowledge that the good is an originating good. Section 10.1003 also provides, consistent with UKFTA Article 6.19.4(e), that when an importer has reason to believe that a claim is based on inaccurate information, the importer must correct the claim and pay any duties that may be due.

Section 10.1004, which is based on UKFTA Articles 6.15 and 6.19.4, requires a U.S. importer, upon request, to submit a copy of the certification of the importer, exporter, or producer if the certification forms the basis for the claim. Section 10.1004 specifies the information that must be included on the certification, sets forth the circumstances under which the certification may be prepared by the exporter or producer of the good, and provides that the certification may be used either for a single importation or for multiple importations of identical goods.

Section 10.1005 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a claim for preferential tariff treatment. Section 10.1006, which is based on UKFTA Article 6.16, provides that the certification is not required for certain non-commercial or low-value importations.

Section 10.1007 implements UKFTA Article 6.17 and § 206 of the Act concerning the maintenance of relevant records regarding the imported good.

Section 10.1008, which reflects UKFTA Article 6.19.2 and § 204(b) of the Act, authorizes the denial of UKFTA tariff benefits if the importer fails to comply with any of the requirements under Subpart R, Part 10, CBP regulations.

Export Requirements

Section 10.1009, which implements UKFTA Articles 6.20.1 and 6.17.1, sets forth certain obligations of a person who completes and issues a certification for a good exported from the United States to Korea. Paragraphs (a) and (b) of § 10.1009, reflecting UKFTA Article 6.20.1, require a person who completes such a certification to provide a copy of the certification to CBP upon request and to give prompt notification of any errors in the certification to every person to whom the certification was given. Paragraph (c) of § 10.1009 reflects Article 6.17.1, concerning the recordkeeping requirements that apply to a person who completes and issues a certification for a good exported from the United States to Korea.

Post-Importation Duty Refund Claims

Sections 10.1010 through 10.1012 implement UKFTA Article 6.19.5 and section 205 of the Act, which allow an importer who did not claim UKFTA tariff benefits on a qualifying good at the time of importation to apply for a refund of any excess duties at any time within one year after the date of importation. Such a claim may be made even if liquidation of the entry would otherwise be considered final under other provisions of law.

Rules of Origin

Sections 10.1013 through 10.1025 provide the implementing regulations regarding the rules of origin provisions of General Note 33, HTSUS, Article 4.2 and Chapter Six of the UKFTA, and § 202 of the Act.

Definitions

Section 10.1013 sets forth terms that are defined for purposes of the rules of origin as found in § 202(n) of the Act.

General Rules of Origin

Section 10.1014 sets forth the basic rules of origin established in Article 6.1 of the UKFTA, § 202(b) of the Act, and General Note 33(b), HTSUS. The provisions of § 10.1014 apply both to the determination of the status of an imported good as an originating good for purposes of preferential tariff treatment and to the determination of the status of a material as an originating material used in a good which is subject to a determination under General Note 33, HTSUS. Section 10.1014(a)(1), reflecting § 202(b)(1) of the Act, specifies those goods that are originating goods because they are wholly obtained or produced entirely in the territory of one or both of the Parties.

Section 10.1014(a)(2), reflecting § 202(b)(2) of the Act, provides that goods that have been produced entirely in the territory of one or both of the Parties from non-originating materials each of which undergoes an applicable change in tariff classification and satisfies any applicable regional value content or other requirement set forth in General Note 33, HTSUS, are originating goods. Essential to the rules in § 10.1014(a)(2) are the specific rules of General Note 33(o), HTSUS, which are incorporated by reference.

Section 10.1014(a)(3), reflecting § 202(b)(3) of the Act, provides that goods that have been produced entirely in the territory of one or both of the Parties exclusively from originating materials are originating goods.

Value Content

Section 10.1015 reflects UKFTA Article 6.2 and § 202(c) of the Act concerning the basic rules that apply for purposes of determining whether an imported good satisfies a minimum regional value content (''RVC'') requirement. Section 10.1016, reflecting

UKFTA Articles 6.3 and 6.4 as well as § 202(d) of the Act, sets forth the rules for determining the value of a material for purposes of calculating the regional value content of a good as well as for purposes of applying the *de minimis* rules.

Accumulation

Section 10.1017, which is derived from UKFTA Article 6.5 and § 202(e) of the Act, sets forth the rule by which originating materials from the territory of a Party that are used in the production of a good in the territory of the other Party will be considered to originate in the territory of that other country. In addition, this section also establishes that a good that is produced by one or more producers in the territory of one or both of the Parties is an originating good if the good satisfies all of the applicable requirements of the rules of origin of the UKFTA.

De Minimis

Section 10.1018, as provided for in UKFTA Article 6.6 and § 202(f) of the Act, sets forth *de minimis* rules for goods that may be considered to qualify as originating goods even though they fail to qualify as originating goods under the rules specified in § 10.1014. There are a number of exceptions to the *de minimis* rule set forth in UKFTA Annex 6–B (Exceptions to Article 6.6) as well as a separate rule for textile and apparel goods.

Fungible Goods and Materials

Section 10.1019, as provided for in UKFTA Article 6.7 and § 202(g) of the Act, sets forth the rules by which ''fungible'' goods or materials may be claimed as originating.

Accessories, Spare Parts, or Tools

Section 10.1020, as set forth in UKFTA Article 6.8 and § 202(h) of the Act, specifies the conditions under which a good's standard accessories, spare parts, or tools are: (1) Treated as originating goods; and (2) disregarded in determining whether all non-originating materials undergo an applicable change in tariff classification under General Note 33(o), HTSUS.

Goods Classifiable as Goods Put Up in Sets

Section 10.1021, which is based on UKFTA Articles 4.2.8 and 6.9 as well as § 202(m) of the Act, provides that, notwithstanding the specific rules of General Note 33(o), HTSUS, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not qualify as originating goods unless: (1) Each of the goods in the set is an originating good; or (2) the total value of the non-originating goods in the set does not exceed 15 percent of the adjusted value of the set, or 10 percent of the adjusted value of the set in the case of textile or apparel goods.

Packaging Materials and Packing Materials

Sections 10.1022 and 10.1023, which are derived from UKFTA Articles 6.10 and 6.11, as well as §§ 202(i) and (j) of the Act, respectively, provide that retail packaging materials and packing materials for shipment are to be disregarded with respect to their actual origin in determining whether non-originating materials undergo an applicable change in tariff classification under General Note 33(o), HTSUS. These sections also set forth the treatment of packaging and packing materials for purposes of the regional value content requirement of the note.

Indirect Materials

Section 10.1024, as set forth in UKFTA Article 6.12 and § 202(k) of the Act, provides that indirect materials, as defined in § 10.1002(n) (General definitions), are disregarded for the purpose of determining whether a good is originating.

Transit and Transshipment

Section 10.1025, which is derived from UKFTA Article 6.13 and § 202(l) of the Act, sets forth the rule that an originating good loses its originating status and is treated as a non-originating good if, subsequent to production in the territory of one or both of the Parties that qualifies the good as originating, the good: (1) Undergoes production outside the territories of the Parties, other than certain specified minor operations; or (2) does not remain under the control of customs authorities in the territory of a non-Party.

Origin Verifications and Determinations

Section 10.1026 implements UKFTA Article 6.18 which concerns the conduct of verifications to determine whether imported goods are originating goods entitled to UKFTA preferential tariff treatment. This section also governs the conduct of verifications directed to producers of materials that are used in the production of a good for which UKFTA preferential duty treatment is claimed.

Section 10.1027, which reflects UKFTA Article 4.3, sets forth the verification and enforcement procedures specifically relating to trade in textile and apparel goods.

Section 10.1028 provides the procedures that apply when preferential tariff treatment is denied on the basis of an origin verification conducted under Subpart R of Part 10.

Section 10.1029 implements UKFTA Article 6.18.6 and § 204(b) of the Act, concerning the denial of preferential tariff treatment in situations in which there is a pattern of conduct by an importer, exporter, or producer of false or unsupported FTA preference claims.

Penalties

Section 10.1030 concerns the general application of penalties to UKFTA transactions and is based on UKFTA Article 7.9.

Section 10.1031 reflects UKFTA Article 6.19.3 and § 204(a)(1) of the Act with regard to an exception to the application of penalties in the case of an importer who promptly and voluntarily makes a corrected claim and pays any duties owing.

Section 10.1032 implements UKFTA Article 6.20.2 and § 204(a)(2) of the Act, concerning an exception to the application of penalties in the case of a U.S. exporter or producer who promptly and voluntarily provides notification of the making of an incorrect certification with respect to a good exported to Korea.

Section 10.1033 sets forth the circumstances under which the making of a corrected claim or certification by an importer or the providing of notification of an incorrect certification by a U.S. exporter or producer will be considered to have been done ''promptly and voluntarily.'' Corrected claims or certifications that fail to meet these requirements are not excepted from penalties, although the U.S. importer, exporter, or producer making the corrected claim or certification may, depending on the circumstances, qualify for a reduced penalty as a prior disclosure under 19 U.S.C. 1592(c)(4). Section 10.1033 also specifies the content of the statement that must accompany each corrected claim or certification, including any certifications and records demonstrating that a good is an originating good.

Goods Returned After Repair or Alteration

Section 10.1034 implements UKFTA Article 2.6 regarding duty-free treatment for goods re-entered after repair or alteration in Korea.

**Other Amendments**

*Part 24*

An amendment is made to § 24.23(c), which concerns the merchandise

processing fee, to implement § 203 of the Act, providing that the merchandise processing fee is not applicable to goods that qualify as originating goods under the UKFTA.

*Part 162*

Part 162 contains regulations regarding the inspection and examination of, among other things, imported merchandise. A cross-reference is added to § 162.0, which is the scope section of the part, to refer readers to the additional UKFTA records maintenance and examination provisions contained in Subpart R, Part 10, CBP regulations.

*Part 163*

A conforming amendment is made to § 163.1 to include the maintenance of any documentation, as required by § 206 of the Act, that the importer may have in support of a claim for preference under the UKFTA as an activity for which records must be maintained. Also, the list of records and information required for the entry of merchandise appearing in the Appendix to Part 163 (commonly known as the (a)(1)(A) list) is also amended to add the records that the importer may have in support of a UKFTA claim for preferential tariff treatment.

*Part 178*

Part 178 sets forth the control numbers assigned to information collections of CBP by the Office of Management and Budget, pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The list contained in § 178.2 is amended to add the information collections used by CBP to determine eligibility for preferential tariff treatment under the UKFTA and the Act.

**Inapplicability of Notice and Delayed Effective Date Requirements**

Under the Administrative Procedure Act (''APA'') (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim regulations involve a foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the FTA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all comments received before issuing a final rule.

**Executive Order 12866 and Regulatory Flexibility Act**

This document is not subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 4, 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

**Paperwork Reduction Act**

The collections of information contained in these regulations are under the review of the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0117, which covers many of the free trade agreements requirements that CBP administers. The addition of the UKFTA requirements will result in an increase in the number of respondents and burden hours for this information collection. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

The collections of information in these regulations are in §§ 10.1003 and 10.1004. This information is required in connection with claims for preferential tariff treatment under the UKFTA and the Act and will be used by CBP to determine eligibility for tariff preference under the UKFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

*Estimated total annual reporting burden:* 40,000 hours.

*Estimated number of respondents:* 200,000.

*Estimated annual frequency of responses per respondent:* 1.

*Estimated average annual burden per response:* .2 hours.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179.

**Signing Authority**

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

**List of Subjects**

*19 CFR Part 10*

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

*19 CFR Part 24*

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

*19 CFR Part 162*

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

*19 CFR Part 163*

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

*19 CFR Part 178*

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Accordingly, Chapter I of Title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for Part 10 continues to read, and the specific authority for Subpart R is added, to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.1001 through 10.1034 also issued under 19 U.S.C. 1202 (General Note 33, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 112–41, 125 Stat. 428 (19 U.S.C. 3805 note).

■ 2. In § 10.31, paragraph (f), the last sentence is revised to read as follows:

### § 10.31 Entry; bond.

* * * * *

(f) * * * In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting, cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada, Mexico, Singapore, Chile, Morocco, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, Peru, or the Republic of Korea and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security will be required if the entered article is a good originating, within the meaning of General Note 12, 25, 26, 27, 29, 30, 31, 32, and 33, HTSUS, in the country of which the importer is a resident.

■ 3. Add subpart R to read as follows:

## Subpart R—United States-Korea Free Trade Agreement

Sec.

**General Provisions**

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10.1002 General definitions.

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10.1031 Corrected claim or certification by importers.
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**Goods Returned After Repair or Alteration**

10.1034 Goods re-entered after repair or alteration in Korea.

## Subpart R—United States-Korea Free Trade Agreement

### General Provisions

### § 10.1001 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported and exported goods under the United States-Korea Free Trade Agreement (the UKFTA) signed on June 30, 2007, and under the United States-Korea Free Trade Agreement Implementation Act (the Act; Pub. L. 112–41, 125 Stat. 428 (19 U.S.C. 3805 note)). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the UKFTA and the Act are contained in parts 24, 162, and 163 of this chapter.

### § 10.1002 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment.* ''*Claim for preferential tariff treatment*'' means a claim that a good is entitled to the duty rate applicable under the UKFTA to an originating good and to an exemption from the merchandise processing fee;

(b) *Claim of origin.* ''*Claim of origin*'' means a claim that a textile or apparel good is an originating good or satisfies the non-preferential rules of origin of a Party;

(c) *Customs duty.* ''*Customs duty*'' includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, such as an adjustment tariff imposed pursuant to Article 69 of Korea's *Customs Act,* but does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994, in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party's law; or

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered.

(d) *Customs Valuation Agreement.* ''*Customs Valuation Agreement*'' means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994,* contained in Annex 1A to the WTO Agreement;

(e) *Days.* ''*Days*'' means calendar days;

(f) *Enterprise.* ''*Enterprise*'' means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally-owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization;

(g) *Enterprise of a Party.* ''*Enterprise of a Party*'' means an enterprise constituted or organized under a Party's law;

(h) *GATT 1994.* ''*GATT 1994*'' means the *General Agreement on Tariffs and Trade 1994,* contained in Annex 1A to the WTO Agreement;

(i) *Goods of a Party.* ''*Goods of a Party*'' means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party;

(j) *Harmonized System.* ''*Harmonized System*'' means the *Harmonized Commodity Description and Coding System,* including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(k) *Heading.* ''*Heading*'' means the first four digits in the tariff classification number under the Harmonized System;

(l) *HTSUS.* ''*HTSUS*'' means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(m) *Identical goods.* ''*Identical goods*'' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating;

(n) *Indirect material.* ''*Indirect material*'' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

(1) Fuel and energy;

(2) Tools, dies, and molds;

(3) Spare parts and materials used in the maintenance of equipment or buildings;

(4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the good;

(7) Catalysts and solvents; and

(8) Any other goods that are not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production;

(o) *Korea.* ''*Korea*'' means the Republic of Korea.

(p) *Originating.* ''*Originating*'' means qualifying for preferential tariff treatment under the rules of origin set out in Chapter Four (Textiles and Apparel) or Chapter Six (Rules of Origin and Origin Procedures) of the UKFTA and General Note 33, HTSUS;

(q) *Party.* ''*Party*'' means the United States or the Republic of Korea;

(r) *Person.* ''*Person*'' means a natural person or an enterprise;

(s) *Person of a Party.* ''*Person of a Party*'' means a national or an enterprise of a Party;

(t) *Preferential tariff treatment.* ''*Preferential tariff treatment*'' means the duty rate applicable under the UKFTA to an originating good, and an exemption from the merchandise processing fee;

(u) *Subheading.* ''*Subheading*'' means the first six digits in the tariff classification number under the Harmonized System;

(v) *Textile or apparel good.* ''*Textile or apparel good*'' means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as ''the ATC'');

(w) *Territory.* ''*Territory*'' means:

(1) With respect to Korea, the land, maritime, and air space over which Korea exercises sovereignty, and those maritime areas, including the seabed and subsoil adjacent to and beyond the outer limit of the territorial seas over which it may exercise sovereign rights or jurisdiction in accordance with international law and its domestic law; and

(2) With respect to the United States,

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise sovereign rights with respect to the seabed and subsoil and their natural resources;

(x) *WTO.* ''*WTO*'' means the World Trade Organization; and

(y) *WTO Agreement.* ''*WTO Agreement*'' means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

**Import Requirements**

**§ 10.1003 Filing of claim for preferential tariff treatment upon importation.**

(a) *Basis of claim.* An importer may make a claim for UKFTA preferential tariff treatment, including an exemption from the merchandise processing fee, based on either:

(1) A written or electronic certification, as specified in § 10.1004 of this subpart, that is prepared by the importer, exporter, or producer of the good; or

(2) The importer's knowledge that the good is an originating good, including reasonable reliance on information in the importer's possession that the good is an originating good.

(b) *Making a claim.* The claim is made by including on the entry summary, or equivalent documentation, the letters ''KR'' as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(c) *Corrected claim.* If, after making the claim specified in paragraph (b) of this section, the importer has reason to believe that the claim is based on inaccurate information or is otherwise invalid, the importer must, within 30 calendar days after the date of discovery of the error, correct the claim and pay any duties that may be due. The importer must submit a statement either in writing or via an authorized electronic data interchange system to the CBP office where the original claim was filed specifying the correction (*see* §§ 10.1031 and 10.1033 of this subpart).

**§ 10.1004 Certification.**

(a) *General.* An importer who makes a claim pursuant to § 10.1003(b) of this subpart based on a certification by the importer, exporter, or producer that the good is originating must submit, at the request of the port director, a copy of the certification. The certification:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must be in the possession of the importer at the time the claim for preferential tariff treatment is made if the certification forms the basis for the claim;

(3) Must include the following information:

(i) The legal name, address, telephone, and email address (if any) of the importer of record of the good (if known), the exporter of the good (if different from the producer), and the producer of the good (if known);

(ii) The legal name, address, telephone, and email address (if any) of the responsible official or authorized agent of the importer, exporter, or producer signing the certification (if different from the information required by paragraph (a)(3)(i) of this section);

(iii) A description of the good for which preferential tariff treatment is claimed, which must be sufficiently detailed to relate it to the invoice and the HS nomenclature;

(iv) The HTSUS tariff classification, to six or more digits, as necessary for the specific change in tariff classification rule for the good set forth in General Note 33(o), HTSUS; and

(v) The applicable rule of origin set forth in General Note 33, HTSUS, under which the good qualifies as an originating good;

(vi) Date of certification;

(vii) In case of a blanket certification issued with respect to the multiple

shipments of identical goods within any period specified in the written or electronic certification, not exceeding 12 months from the date of certification, the period that the certification covers; and

(4) Must include a statement, in substantially the following form:

''I certify that:
The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;
I agree to maintain and present upon request, documentation necessary to support these representations;
The goods comply with all requirements for preferential tariff treatment specified for those goods in the United States-Korea Free Trade Agreement; and
This document consists of ____ pages, including all attachments.''

(b) *Responsible official or agent.* The certification provided for in paragraph (a) of this section must be signed and dated by a responsible official of the importer, exporter, or producer, or by the importer's, exporter's, or producer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The certification provided for in paragraph (a) of this section must be completed in either the English or Korean language. In the latter case, the port director may require the importer to submit an English translation of the certification.

(d) *Certification by the exporter or producer.* (1) A certification may be prepared by the exporter or producer of the good on the basis of:

(i) The exporter's or producer's knowledge that the good is originating; or

(ii) In the case of an exporter, reasonable reliance on the producer's written or electronic certification that the good is originating.

(2) The port director may not require an exporter or producer to provide a written or electronic certification to another person.

(e) *Applicability of certification.* The certification provided for in paragraph (a) of this section may be applicable to:

(1) A single shipment of a good into the United States; or

(2) Multiple shipments of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the certification.

(f) *Validity of certification.* A certification that is properly completed, signed, and dated in accordance with the requirements of this section will be accepted as valid for four years following the date on which it was issued.

**§ 10.1005 Importer obligations.**

(a) *General.* An importer who makes a claim for preferential tariff treatment under § 10.1003(b) of this subpart:

(1) Will be deemed to have certified that the good is eligible for preferential tariff treatment under the UKFTA;

(2) Is responsible for the truthfulness of the claim and of all the information and data contained in the certification provided for in § 10.1004 of this subpart; and

(3) Is responsible for submitting any supporting documents requested by CBP, and for the truthfulness of the information contained in those documents. When a certification prepared by an exporter or producer forms the basis of a claim for preferential tariff treatment, and CBP requests the submission of supporting documents, the importer will provide to CBP, or arrange for the direct submission by the exporter or producer of, all information relied on by the exporter or producer in preparing the certification.

(b) *Information provided by exporter or producer.* The fact that the importer has made a claim or submitted a certification based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

(c) *Exemption from penalties.* An importer will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for making an incorrect claim for preferential tariff treatment or submitting an incorrect certification, provided that the importer promptly and voluntarily corrects the claim or certification and pays any duty owing (*see* §§ 10.1031 and 10.1033 of this subpart).

**§ 10.1006 Certification not required.**

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a copy of a certification under § 10.1004 of this subpart for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the originating goods does not exceed U.S. $2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section is part of a series of importations carried out or planned for the purpose of evading compliance with the certification requirements of § 10.1004 of this subpart, the port director will notify the importer that for that importation the importer must submit to CBP a copy of the certification. The importer must submit such a copy within 30 days from the date of the notice. Failure to timely submit a copy of the certification will result in denial of the claim for preferential tariff treatment.

**§ 10.1007 Maintenance of records.**

(a) *General.* An importer claiming preferential tariff treatment for a good (based on either the importer's certification or its knowledge, or on the certification issued by the exporter or producer) imported into the United States under § 10.1003(b) of this subpart must maintain for a minimum of five years from the date of importation of the good, all records and documents that the importer has demonstrating that the good qualifies for preferential tariff treatment under the UKFTA. These records are in addition to any other records that the importer is required to prepare, maintain, or make available to CBP under part 163 of this chapter.

(b) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

**§ 10.1008 Effect of noncompliance; failure to provide documentation regarding transshipment.**

(a) *General.* If the importer fails to comply with any requirement under this subpart, including submission of a complete certification prepared in accordance with § 10. 1004 of this subpart, when requested, the port director may deny preferential tariff treatment to the imported good.

(b) *Failure to provide documentation regarding transshipment.* Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential tariff treatment to an originating good if the good is shipped through or transshipped in a country other than a Party to the UKFTA, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the conditions set forth in § 10.1025(a) of this subpart were met.

**Export Requirements**

**§ 10.1009 Certification for goods exported to Korea.**

(a) *Submission of certification to CBP.* Any person who completes and issues a certification for a good exported from the United States to Korea must provide

a copy of the certification (written or electronic) to CBP upon request.

(b) *Notification of errors in certification.* Any person who completes and issues a certification for a good exported from the United States to Korea and who has reason to believe that the certification contains or is based on incorrect information must promptly notify every person to whom the certification was provided of any change that could affect the accuracy or validity of the certification. Notification of an incorrect certification must also be given either in writing or via an authorized electronic data interchange system to CBP specifying the correction (*see* §§ 10.1032 and 10.1033 of this subpart).

(c) *Maintenance of records*—(1) *General.* Any person who completes and issues a certification for a good exported from the United States to Korea must maintain, for a period of at least five years after the date the certification was issued, all records and supporting documents relating to the origin of a good for which the certification was issued, including the certification or copies thereof and records and documents associated with:

(i) The purchase, cost, and value of, and payment for, the good;

(ii) The purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) The production of the good in the form in which the good was exported.

(2) *Method of maintenance.* The records referred to in paragraph (c) of this section must be maintained as provided in § 163.5 of this chapter.

(3) *Availability of records.* For purposes of determining compliance with the provisions of this part, the records required to be maintained under this section must be stored and made available for examination and inspection by the port director or other appropriate CBP officer in the same manner as provided in Part 163 of this chapter.

**Post-Importation Duty Refund Claims**

**§ 10.1010 Right to make post-importation claim and refund duties.**

Notwithstanding any other available remedy, where a good would have qualified as an originating good when it was imported into the United States but no claim for preferential tariff treatment was made, the importer of that good may file a claim for a refund of any excess duties at any time within one year after the date of importation of the good in accordance with the procedures set forth in § 10.1011 of this subpart. Subject to the provisions of § 10.1008 of this subpart, CBP may refund any excess duties by liquidation or reliquidation of the entry covering the good in accordance with § 10.1012(c) of this subpart.

**§ 10.1011 Filing procedures.**

(a) *Place of filing.* A post-importation claim for a refund must be filed with the director of the port at which the entry covering the good was filed.

(b) *Contents of claim.* A post-importation claim for a refund must be filed by presentation of the following:

(1) A written or electronic declaration or statement stating that the good was an originating good at the time of importation and setting forth the number and date of the entry or entries covering the good;

(2) A copy of a written or electronic certification prepared in accordance with § 10.1004 of this subpart if a certification forms the basis for the claim, or other information demonstrating that the good qualifies for preferential tariff treatment;

(3) A written statement indicating whether the importer of the good provided a copy of the entry summary or equivalent documentation to any other person. If such documentation was so provided, the statement must identify each recipient by name, CBP identification number, and address and must specify the date on which the documentation was provided; and

(4) A written statement indicating whether or not any person has filed a protest relating to the good under any provision of law; and if any such protest has been filed, the statement must identify the protest by number and date.

**§ 10.1012 CBP processing procedures.**

(a) *Status determination.* After receipt of a post-importation claim made pursuant to § 10.1011 of this subpart, the port director will determine whether the entry covering the good has been liquidated and, if liquidation has taken place, whether the liquidation has become final.

(b) *Pending protest or judicial review.* If the port director determines that any protest relating to the good has not been finally decided, the port director will suspend action on the claim filed under § 10.1011 of this subpart until the decision on the protest becomes final. If a summons involving the tariff classification or dutiability of the good is filed in the Court of International Trade, the port director will suspend action on the claim filed under § 10.1011 of this subpart until judicial review has been completed.

(c) *Allowance of claim.* (1) *Unliquidated entry.* If the port director determines that a claim for a refund filed under § 10.1011 of this subpart should be allowed and the entry covering the good has not been liquidated, the port director will take into account the claim for refund in connection with the liquidation of the entry.

(2) *Liquidated entry.* If the port director determines that a claim for a refund filed under § 10.1011 of this subpart should be allowed and the entry covering the good has been liquidated, whether or not the liquidation has become final, the entry must be reliquidated in order to effect a refund of duties under this section. If the entry is otherwise to be reliquidated based on administrative review of a protest or as a result of judicial review, the port director will reliquidate the entry taking into account the claim for refund under § 10.1011 of this subpart.

(d) *Denial of claim.* (1) *General.* The port director may deny a claim for a refund filed under § 10.1011 of this subpart if the claim was not filed timely, if the importer has not complied with the requirements of § 10.1008 and 10.1011 of this subpart, or if, following an origin verification under § 10.1026 of this subpart, the port director determines either that the imported good was not an originating good at the time of importation or that a basis exists upon which preferential tariff treatment may be denied under § 10.1026 of this subpart.

(2) *Unliquidated entry.* If the port director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has not been liquidated, the port director will deny the claim in connection with the liquidation of the entry, and notice of the denial and the reason for the denial will be provided to the importer in writing or via an authorized electronic data interchange system.

(3) *Liquidated entry.* If the port director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has been liquidated, whether or not the liquidation has become final, the claim may be denied without reliquidation of the entry. If the entry is otherwise to be reliquidated based on administrative review of a protest or as a result of judicial review, such reliquidation may include denial of the claim filed under this subpart. In either case, the port director will provide notice of the denial and the reason for the denial to the importer in writing or

via an authorized electronic data interchange system.

**Rules of Origin**

**§ 10.1013 Definitions.**

For purposes of §§ 10.1013 through 10.1025:

(a) *Adjusted value.* ''*Adjusted value*'' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, adjusted, if necessary, to exclude:

(1) Any costs, charges, or expenses incurred for transportation, insurance and related services incident to the international shipment of the good from the country of exportation to the place of importation; and

(2) The value of packing materials and containers for shipment as defined in paragraph (m) of this section;

(b) *Class of motor vehicles.* ''*Class of motor vehicles*'' means any one of the following categories of motor vehicles:

(1) Motor vehicles classified under subheading 8701.20, HTSUS, motor vehicles for the transport of 16 or more persons classified under subheading 8702.10 or 8702.90, HTSUS, and motor vehicles classified under subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 87.05 or 87.06, HTSUS;

(2) Motor vehicles classified under subheading 8701.10 or subheading 8701.30 through 8701.90, HTSUS;

(3) Motor vehicles for the transport of 15 or fewer persons classified under subheading 8702.10 or 8702.90, HTSUS and motor vehicles classified under subheading 8704.21 or 8704.31, HTSUS; or

(4) Motor vehicles classified under subheading 8703.21 through 8703.90, HTSUS;

(c) *Exporter.* ''*Exporter*'' means a person who exports goods from the territory of a Party;

(d) *Fungible goods or materials.* ''*Fungible goods or materials*'' means goods or materials that are interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material;

(e) *Generally Accepted Accounting Principles.* ''*Generally Accepted Accounting Principles*'' means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(f) *Good.* ''*Good*'' means any merchandise, product, article, or material;

(g) *Goods wholly obtained or produced entirely in the territory of one or more of the Parties.* ''*Goods wholly obtained or produced entirely in the territory of one or both of the Parties*'' means:

(1) Plants and plant products grown, and harvested or gathered, in the territory of one or both of the Parties;

(2) Live animals born and raised in the territory of one or both of the Parties;

(3) Goods obtained in the territory of one or both of the Parties from live animals;

(4) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of one or both of the Parties;

(5) Minerals and other natural resources not included in paragraphs (g)(1) through (g)(4) extracted or taken from the territory of one or both of the Parties;

(6) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of the Parties by:

(i) A vessel that is registered or recorded with Korea and flying the flag of Korea; or

(ii) A vessel that is documented under the laws of the United States;

(7) Goods produced on board factory ships from the goods referred to in paragraph (g)(6), if such factory ship:

(i) Is registered or recorded with Korea and flies the flag of Korea; or

(ii) Is a vessel that is documented under the laws of the United States;

(8) Goods taken by a Party or a person of a Party from the seabed or subsoil outside the territory of one or both of the Parties, provided that Party has rights to exploit such seabed or subsoil;

(9) Goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;

(10) Waste and scrap derived from:

(i) Manufacturing or processing operations in the territory of one or both of the Parties; or

(ii) Used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials;

(11) Recovered goods derived in the territory of one or both of the Parties from used goods, and used in the territory of one or both of the Parties in the production of remanufactured goods; and

(12) Goods produced in the territory of one or both of the Parties exclusively from goods referred to in paragraphs (g)(1) through (g)(10) of this section, or from their derivatives, at any stage of production;

(h) *Material.* ''*Material*'' means a good that is used in the production of another good, including a part or an ingredient;

(i) *Model line.* ''*Model line*'' means a group of motor vehicles having the same platform or model name;

(j) *Net cost.* ''*Net cost*'' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

(k) *Non-allowable interest costs.* ''*Non-allowable interest costs*'' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate on debt obligations of comparable maturities issued by the central level of government of the Party in which the producer is located;

(l) *Non-originating good or non-originating material.* ''*Non-originating good*'' or ''*non-originating material*'' means a good or material, as the case may be, that does not qualify as originating under General Note 33, HTSUS, or this subpart;

(m) *Packing materials and containers for shipment.* ''*Packing materials and containers for shipment*'' means the goods used to protect a good during its transportation to the United States and does not include the packaging materials and containers in which a good is packaged for retail sale;

(n) *Producer.* ''*Producer*'' means a person who engages in the production of a good in the territory of a Party;

(o) *Production.* ''*Production*'' means growing, mining, harvesting, fishing, breeding, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

(p) *Reasonably allocate.* ''*Reasonably allocate*'' means to apportion in a manner that would be appropriate under Generally Accepted Accounting Principles;

(q) *Reasonable suspicion of unlawful activity.* ''*Reasonable suspicion of unlawful activity*'' means a suspicion based on relevant factual information obtained from public or private sources comprising one or more of the following:

(1) Historical evidence of non-compliance with laws or regulations governing importations by an importer or exporter;

(2) Historical evidence of non-compliance with laws or regulations governing importations by a manufacturer, producer, or other person involved in the movement of goods from

the territory of one Party to the territory of the other Party;

(3) Historical evidence that some or all of the persons involved in the movement from the territory of one Party to the territory of the other Party of goods within a specific product sector have not complied with a Party's laws and regulations governing importations; or

(4) Other information that the requesting Party and the Party from whom the information is requested agree is sufficient in the context of a particular request;

(r) *Recovered goods.* ''*Recovered goods*'' means materials in the form of individual parts that are the result of:

(1) The disassembly of used goods into individual parts; and

(2) The cleaning, inspecting, testing, or other processing that is necessary to improve such individual parts to sound working condition;

(s) *Remanufactured goods.* ''*Remanufactured goods*'' means goods classified in Chapter 84, 85, 87, or 90, or under heading 9402, HTSUS, that:

(1) Are entirely or partially comprised of recovered goods as defined in § 10.1013(r) and,

(2) Have a similar life expectancy and enjoy a factory warranty similar to such new goods;

(t) *Royalties.* ''*Royalties*'' means payments of any kind, including payments under technical assistance agreements or similar agreements, made as consideration for the use of, or right to use, any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance agreements or similar agreements that can be related to specific services such as:

(1) Personnel training, without regard to where performed; and

(2) If performed in the territory of one or both of the Parties, engineering, tooling, die-setting, software design and similar computer services;

(u) *Sales promotion, marketing, and after-sales service costs.* ''*Sales promotion, marketing, and after-sales service costs*'' means the following costs related to sales promotion, marketing, and after-sales service:

(1) Sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing, and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

(2) Sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

(3) Salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), traveling and living expenses, membership and professional fees, for sales promotion, marketing, and after-sales service personnel;

(4) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(5) Product liability insurance;

(6) Office supplies for sales promotion, marketing, and after-sales service of goods, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(7) Telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(8) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers;

(9) Property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer; and

(10) Payments by the producer to other persons for warranty repairs;

(v) *Self-produced material.* ''*Self-produced material*'' means an originating material that is produced by a producer of a good and used in the production of that good;

(w) *Shipping and packing costs.* ''*Shipping and packing costs*'' means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale;

(x) *Total cost.* ''*Total cost*'' means all product costs, period costs, and other costs for a good incurred in the territory of one or both of the Parties. Product costs are costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead. Period costs are costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses. Other costs are all costs recorded on the books of the producer that are not product costs or period costs, such as interest. Total cost does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;

(y) *Used.* ''*Used*'' means utilized or consumed in the production of goods; and

(z) *Value.* ''*Value*'' means the value of a good or material for purposes of calculating customs duties or for purposes of applying this subpart.

### § 10.1014 Originating goods.

Except as otherwise provided in this subpart and General Note 33(n), HTSUS, a good imported into the customs territory of the United States will be considered an originating good under the UKFTA only if:

(a) The good is wholly obtained or produced entirely in the territory of one or both of the Parties;

(b) The good is produced entirely in the territory of one or both of the Parties and:

(1) Each non-originating material used in the production of the good undergoes an applicable change in tariff classification specified in General Note 33(o), HTSUS, and the good satisfies all other applicable requirements of General Note 33, HTSUS; or

(2) The good otherwise satisfies any applicable regional value content or other requirements specified in General Note 33(o), HTSUS, and satisfies all other applicable requirements of General Note 33, HTSUS; or

(c) The good is produced entirely in the territory of one or both of the Parties exclusively from originating materials.

### § 10.1015 Regional value content.

(a) *General.* Except for goods to which paragraph (d) of this section applies, where General Note 33, HTSUS, sets forth a rule that specifies a regional value content test for a good, the regional value content of such good must be calculated by the importer, exporter, or producer of the good on the basis of the build-down method described in paragraph (b) of this section or the build-up method

described in paragraph (c) of this section.

(b) *Build-down method.* Under the build-down method, the regional value content must be calculated on the basis of the formula RVC = ((AV − VNM)/AV) × 100, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VNM is the value of non-originating materials, other than indirect materials, that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(c) *Build-up method.* Under the build-up method, the regional value content must be calculated on the basis of the formula RVC = (VOM/AV) × 100, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VOM is the value of originating materials, other than indirect materials, that are acquired or self-produced and used by the producer in the production of the good.

(d) *Special rule for certain automotive goods.* (1) *General.* Where General Note 33, HTSUS, sets forth a rule that specifies a regional value content test for an automotive good provided for in any of subheadings 8407.31 through 8407.34 (engines), subheading 8408.20 (diesel engine for vehicles), heading 8409 (parts of engines), headings 8701 through 8705 (motor vehicles), and headings 8706 (chassis), 8707 (bodies), and 8708 (motor vehicle parts), HTSUS, the regional value content of such good may be calculated by the importer, exporter, or producer of the good on the basis of the net cost method described in paragraph (d)(2) of this section.

(2) *Net cost method.* Under the net cost method, the regional value content is calculated on the basis of the formula RVC = ((NC − VNM)/NC) × 100, where RVC is the regional value content, expressed as a percentage; NC is the net cost of the good; and VNM is the value of non-originating materials, other than indirect materials, that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced. Consistent with the provisions set out in Generally Accepted Accounting Principles, applicable in the territory of the Party where the good is produced, the net cost of the good must be determined by:

(i) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) Reasonably allocating each cost that forms part of the total costs incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or non-allowable interest costs.

(3) *Motor vehicles.* (i) *General.* For purposes of calculating the regional value content under the net cost method for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over the producer's fiscal year using any one of the categories described in paragraph (d)(3)(ii) of this section either on the basis of all motor vehicles in the category or those motor vehicles in the category that are exported to the territory of one or both Parties.

(ii) *Categories.* The categories referred to in paragraph (d)(3)(i) of this section are as follows:

(A) The same model line of motor vehicles, in the same class of vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated;

(B) The same class of motor vehicles, and produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated; and

(C) The same model line of motor vehicles produced in the territory of a Party as the motor vehicle for which the regional value content is being calculated.

(4) *Other automotive goods.* (i) *General.* For purposes of calculating the regional value content under the net cost method for automotive goods provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, 8706, 8707, or 8708, HTSUS, that are produced in the same plant, an importer, exporter, or producer may:

(A) Average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over any of the following: the fiscal year, or any quarter or month, of the motor vehicle producer to whom the automotive good is sold, or the fiscal year, or any quarter or month, of the producer of the automotive good, provided the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(B) Determine the average referred to in paragraph (d)(4)(i)(A) of this section separately for such goods sold to one or more motor vehicle producers; or

(C) Make a separate determination under paragraph (d)(4)(i)(A) or (B) of this section for automotive goods that are exported to the territory of Korea or the United States.

(ii) *Duration of use.* A person selecting an averaging period of one month or quarter under paragraph (d)(4)(i)(A) of this section must continue to use that method for that category of automotive goods throughout the fiscal year.

**§ 10.1016 Value of materials.**

(a) *Calculating the value of materials.* Except as provided in § 10.1024 of this subpart, for purposes of calculating the regional value content of a good under General Note 33 HTSUS, and for purposes of applying the *de minimis* (*see* § 10.1018 of this subpart) provisions of General Note 33, HTSUS, the value of a material is:

(1) In the case of a material imported by the producer of the good, the adjusted value of the material;

(2) In the case of a material acquired by the producer in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, of the material, i.e., in the same manner as for imported goods, with reasonable modifications to the provisions of the Customs Valuation Agreement as may be required due to the absence of an importation by the producer (including, but not limited to, treating a domestic purchase by the producer as if it were a sale for export to the country of importation); or

(3) In the case of a self-produced material, the sum of:

(i) All the costs incurred in the production of the material, including general expenses; and

(ii) An amount for profit equivalent to the profit added in the normal course of trade.

(b) *Examples.* The following examples illustrate application of the principles

set forth in paragraph (a)(2) of this section:

*Example 1.* A producer in Korea purchases material x from an unrelated seller in Korea for $100. Under the provisions of Article 1 of the Customs Valuation Agreement, transaction value is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8. In order to apply Article 1 to this domestic purchase by the producer, such purchase is treated as if it were a sale for export to the country of importation. Therefore, for purposes of determining the adjusted value of material x, Article 1 transaction value is the price actually paid or payable for the goods when sold to the producer in Korea ($100), adjusted in accordance with the provisions of Article 8. In this example, it is irrelevant whether material x was initially imported into Korea by the seller (or by anyone else). So long as the producer acquired material x in Korea, it is intended that the value of material x will be determined on the basis of the price actually paid or payable by the producer adjusted in accordance with the provisions of Article 8.

*Example 2.* Same facts as in Example 1, except that the sale between the seller and the producer is subject to certain restrictions that preclude the application of Article 1. Under Article 2 of the Customs Valuation Agreement, the value is the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued. In order to permit the application of Article 2 to the domestic acquisition by the producer, it should be modified so that the value is the transaction value of identical goods sold within Korea at or about the same time the goods were sold to the producer in Korea. Thus, if the seller of material x also sold an identical material to another buyer in Korea without restrictions, that other sale would be used to determine the adjusted value of material x.

(c) *Permissible additions to, and deductions from, the value of materials.* (1) *Additions to originating materials.* For originating materials, the following expenses, if not included under paragraph (a) of this section, may be added to the value of the originating material:

(i) The costs of freight (''cost of freight'' includes the costs of all types of freight, including in-land freight incurred within a Party's territory, regardless of the mode of transportation), insurance, packing, and all other costs incurred in transporting the material within a Party's territory or between the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable; and

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(2) *Deductions from non-originating materials.* For non-originating materials, if included under paragraph (a) of this section, the following expenses may be deducted from the value of the non-originating material:

(i) The costs of freight (''cost of freight'' includes the costs of all types of freight, including in-land freight incurred within a Party's territory, regardless of the mode of transportation), insurance, packing, and all other costs incurred in transporting the material within a Party's territory or between the territories of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable;

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products; and

(iv) The cost of originating materials used in the production of the non-originating material in the territory of a Party.

(d) *Accounting method.* Any cost or value referenced in General Note 33, HTSUS, and this subpart, must be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

### § 10.1017 Accumulation.

(a) Originating goods or materials from the territory of one Party, incorporated into a good in the territory of the other Party will be considered to originate in the territory of that other Party.

(b) A good that is produced in the territory of one or both of the Parties by one or more producers is an originating good if the good satisfies the requirements of § 10.1014 of this subpart and all other applicable requirements of General Note 33, HTSUS.

### § 10.1018 De minimis.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, a good that does not undergo a change in tariff classification pursuant to General Note 33, HTSUS, is an originating good if:

(1) The value of all non-originating materials used in the production of the good that do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

(2) The value of the non-originating materials described in paragraph (a)(1) of this section is included in the value of non-originating materials for any applicable regional value content requirement for the good under General Note 33, HTSUS; and

(3) The good meets all other applicable requirements of General Note 33, HTSUS.

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) A non-originating material provided for in Chapter 3, HTSUS, that is used in the production of a good classified in that Chapter;

(2) A non-originating material provided for in Chapter 4, HTSUS, or a non-originating dairy preparation containing over 10 percent by weight of milk solids classified under subheadings 1901.90 or 2106.90, HTSUS, that is used in the production of a good provided for in Chapter 4, HTSUS;

(3) A non-originating material provided for in Chapter 4, HTSUS, or a non-originating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, HTSUS, which is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10, HTSUS;

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20, HTSUS;

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, HTSUS;

(iv) Goods provided for in heading 2105, HTSUS;

(v) Beverages containing milk provided for in subheading 2202.90, HTSUS; or

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90, HTSUS;

(4) A non-originating material provided for in Chapter 7, HTSUS that is used in the production of a good classified under the following subheadings: 0703.10, 0703.20, 0709.59, 0709.60, 0710.21 through 0710.80, 0711.90, 0712.20, 0712.39 through 0713.10 or 0714.20, HTSUS;

(5) A non-originating material provided for in heading 1006, HTSUS,

or a non-originating rice product classified in Chapter 11, HTSUS that is used in the production of a good provided for under the headings 1006, 1102, 1103, 1104, HTSUS, or subheadings 1901.20 or 1901.90, HTSUS;

(6) A non-originating material provided for in heading 0805, HTSUS or subheadings 2009.11 through 2009.39, HTSUS, that is used in the production of a good provided for under subheadings 2009.11 through 2009.39, HTSUS, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for under subheadings 2106.90 or 2202.90, HTSUS;

(7) Non-originating peaches, pears, or apricots provided for in Chapters 8 or 20, HTSUS, that are used in the production of a good classified under heading 2008, HTSUS;

(8) A non-originating material provided for in Chapter 15, HTSUS, that is used in the production of a good classified under headings 1501 through 1508, 1512, 1514, or 1515, HTSUS;

(9) A non-originating material provided for in heading 1701, HTSUS, that is used in the production of a good provided for in any of headings 1701 through 1703, HTSUS;

(10) A non-originating material provided for in Chapter 17, HTSUS, that is used in the production of a good provided for in subheading 1806.10, HTSUS; or

(11) Except as provided in paragraphs (b)(1) through (10) of this section and General Note 33, HTSUS, a non-originating material used in the production of a good provided for in any of Chapters 1 through 24, HTSUS, unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this subpart.

(c) *Textile and apparel goods.* (1) *General.* Except as provided in paragraph (c)(2) of this section, a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in General Note 33, HTSUS, will nevertheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(2) *Exception for goods containing elastomeric yarns.* A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good will be considered an originating good only if such yarns are wholly formed and finished in the territory of a Party.

(3) For purposes of this section, ''*wholly formed or finished*'' means when used in reference to fabrics, all production processes and finishing operations necessary to produce a finished fabric ready for use without further processing. These processes and operations include formation processes, such as weaving, knitting, needling, tufting, felting, entangling, or other such processes, and finishing operations, including bleaching, dyeing, and printing. When used in reference to yarns, ''*wholly formed or finished*'' means all production processes and finishing operations, beginning with the extrusion of filaments, strips, film, or sheet, and including drawing to fully orient a filament or slitting a film or sheer into strip, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn.

**§ 10.1019 Fungible goods and materials.**

(a) *General.* A person claiming that a fungible good or material is an originating good may base the claim either on the physical segregation of each fungible good or material or by using an inventory management method with respect to the fungible good or material. For purposes of this section, the term ''*inventory management method*'' means:

(1) Averaging;

(2) ''Last-in, first-out;''

(3) ''First-in, first-out;'' or

(4) Any other method that is recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that country.

(b) *Duration of use.* A person selecting an inventory management method under paragraph (a) of this section for a particular fungible good or material must continue to use that method for that fungible good or material throughout the fiscal year of that person.

**§ 10.1020 Accessories, spare parts, or tools.**

(a) *General.* Accessories, spare parts, or tools that are delivered with a good and that form part of the good's standard accessories, spare parts, or tools will be treated as originating goods if the good is an originating good, and will be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification specified in General Note 33, HTSUS, provided that:

(1) The accessories, spare parts, or tools are classified with, and not invoiced separately from, the good; and

(2) The quantities and value of the accessories, spare parts, or tools are customary for the good.

(b) *Regional value content.* If the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good under § 10.1015 of this subpart.

**§ 10.1021 Goods classifiable as goods put up in sets.**

Notwithstanding the specific rules set forth in General Note 33, HTSUS, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not be considered to be originating goods unless:

(a) Each of the goods in the set is an originating good; or

(b) The total value of the non-originating goods in the set does not exceed:

(1) In the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(2) In the case of a good other than a textile or apparel good, 15 percent of the adjusted value of the set.

**§ 10.1022 Retail packaging materials and containers.**

(a) *Effect on tariff shift rule.* Packaging materials and containers in which a good is packaged for retail sale, if classified with the good for which preferential tariff treatment under the UKFTA is claimed, will be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in General Note 33, HTSUS.

(b) *Effect on regional value content calculation.* If the good is subject to a regional value content requirement, the value of such packaging materials and containers will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

*Example 1.* Korean Producer A of good C imports 100 non-originating blister packages to be used as retail packaging for good C. As provided in § 10.1016(a)(1) of this subpart, the value of the blister packages is their adjusted value, which in this case is $10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method, RVC = ((AV − VNM)/AV) × 100 (*see* § 10.1015(b) of this subpart), in determining whether good C satisfies the regional value

content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their $10 adjusted value is included in the VNM, value of non-originating materials, of good C.

*Example 2.* Same facts as in Example 1, except that the blister packages are originating. In this case, the adjusted value of the originating blister packages would *not* be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method, RVC = (VOM/AV) × 100 (*see* § 10.1015(c) of this subpart), the adjusted value of the blister packaging would be included as part of the VOM, value of originating materials.

**§ 10.1023 Packing materials and containers for shipment.**

(a) *Effect on tariff shift rule.* Packing materials and containers for shipment, as defined in § 10.1013(m) of this subpart, are to be disregarded in determining whether the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in General Note 33, HTSUS. Accordingly, such materials and containers are not required to undergo the applicable change in tariff classification even if they are non-originating.

(b) *Effect on regional value content calculation.* Packing materials and containers for shipment, as defined in § 10.1013(m) of this subpart, are to be disregarded in determining the regional value content of a good imported into the United States. Accordingly, in applying the build-down, build-up, or net cost method for determining the regional value content of a good imported into the United States, the value of such packing materials and containers for shipment (whether originating or non-originating) is disregarded and not included in AV, adjusted value, VNM, value of non-originating materials, VOM, value of originating materials, or NC, net cost of a good.

*Example.* Korean producer A produces good C. Producer A ships good C to the United States in a shipping container that it purchased from Company B in Korea. The shipping container is originating. The value of the shipping container determined under § 10.1016(a)(2) of this subpart is $3. Good C is subject to a regional value content requirement. The transaction value of good C is $100, which includes the $3 shipping container. The U.S. importer decides to use the build-up method, RVC = (VOM/AV) × 100 (*see* § 10.1015(c) of this subpart), in determining whether good C satisfies the regional value content requirement. In determining the AV, adjusted value, of good C imported into the U.S., paragraph (b) of this section and the definition of AV require a $3 deduction for the value of the shipping container. Therefore, the AV is $97 ($100 − $3). In addition, the value of the shipping container is disregarded and not included in the VOM, value of originating materials.

**§ 10.1024 Indirect materials.**

An indirect material, as defined in § 10.1002(n) of this subpart, will be disregarded for the purpose of determining whether a good is originating.

*Example.* Korean Producer A produces good C using non-originating material B. Producer A imports non-originating rubber gloves for use by workers in the production of good C. Good C is subject to a tariff shift requirement. As provided in § 10.1014(b)(1) of this subpart and General Note 33, each of the non-originating materials in good C must undergo the specified change in tariff classification in order for good C to be considered originating. Although non-originating material B must undergo the applicable tariff shift in order for good C to be considered originating, the rubber gloves do not because they are indirect materials and are disregarded for purposes of determining whether the good is originating.

**§ 10.1025 Transit and transshipment.**

(a) *General.* A good that has undergone production necessary to qualify as an originating good under § 10.1014 of this subpart will not be considered an originating good if, subsequent to that production, the good:

(1) Undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party; or

(2) Does not remain under the control of customs authorities in the territory of a non-Party.

(b) *Documentary evidence.* An importer making a claim that a good is originating may be required to demonstrate, to CBP's satisfaction, that the conditions and requirements set forth in paragraph (a) of this section were met. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

## Origin Verifications and Determinations

**§ 10.1026 Verification and justification of claim for preferential tariff treatment.**

(a) *Verification.* A claim for preferential tariff treatment made under § 10.1003(b) or § 10.1011 of this subpart, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, the port director finds a pattern of conduct, indicating that an importer, exporter, or producer has provided false or unsupported declarations or certifications, or the exporter or producer fails to consent to a verification visit, the port director may deny the claim for preferential treatment. A verification of a claim for preferential tariff treatment under UKFTA for goods imported into the United States may be conducted by means of one or more of the following:

(1) Written requests for information from the importer, exporter, or producer;

(2) Written questionnaires to the importer, exporter, or producer;

(3) Visits to the premises of the exporter or producer in the territory of Korea, to review the records of the type referred to in § 10.1009(c)(1) of this subpart or to observe the facilities used in the production of the good, in accordance with the framework that the Parties develop for conducting verifications; and

(4) Such other procedures to which the Parties may agree.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Generally Accepted Accounting Principles applicable in the country of production.

**§ 10.1027 Special rule for verifications in Korea of U.S. imports of textile and apparel goods.**

(a) *Procedures to determine whether a claim of origin is accurate.* (1) *General.* For the purpose of determining that a claim of origin for a textile or apparel good is accurate, CBP may request that the government of the Republic of Korea conduct a verification, regardless of whether a claim is made for preferential tariff treatment.

(2) *Actions during a verification.* While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action, which may include suspending the liquidation of the entry of the textile or apparel good for which a claim for preferential tariff treatment or a claim of origin has been made.

(3) *Actions following a verification.* If on completion of a verification under this paragraph, CBP makes a negative determination, or if CBP is unable to determine that a claim of origin for a textile or apparel good is accurate

within 12 months after its request for a verification, CBP, if directed by the President, may take appropriate action, which may include:

(i) Denying the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made that is the subject of a verification if CBP determines that the enterprise has provided insufficient or incorrect information to support the claim; and

(ii) Denying entry to the textile or apparel good for which a claim for preferential tariff treatment or a claim of origin has been made that is the subject of a verification, if CBP determines that the enterprise has provided insufficient or incorrect information to support the claim.

(b) *Procedures to determine compliance with applicable customs laws and regulations of the United States.* (1) *General.* For purposes of enabling CBP to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, CBP may request that the government of the Republic of Korea conduct a verification, if CBP has a reasonable suspicion of unlawful activity relating to trade in textile or apparel goods by a person of Korea.

(2) *Actions during a verification.* While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action, which may include suspending the liquidation of the entry of any textile or apparel good exported or produced by the enterprise subject to the verification.

(3) *Actions following a verification.* If on completion of a verification under this paragraph, CBP makes a negative determination, or if CBP is unable to determine that the person is complying with applicable customs measures affecting trade in textile or apparel goods within 12 months after its request for a verification, CBP, if directed by the President, may take appropriate action, which may include:

(i) Denying the application of preferential tariff treatment to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines that the enterprise has provided insufficient or incorrect information with respect to its obligations under the applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods; and

(ii) Denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification, if CBP determines that the enterprise has provided insufficient or incorrect information with respect to its obligations under the applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods.

(c) *Denial of permission to conduct a verification.* If an enterprise does not consent to a verification under this section, CBP may deny preferential tariff treatment or deny entry to similar goods exported or produced by the enterprise that would have been the subject of the verification.

(d) *Action by U.S. officials in conducting a verification abroad.* U.S. officials may undertake or assist in a verification under this section by conducting visits in the territory of Korea, along with the competent authorities of Korea, to the premises of an exporter, producer, or any other enterprise involved in the movement of textile or apparel goods from Korea to the United States.

(e) *Continuation of appropriate action.* Before taking any action under paragraph (a) or (b), CBP will notify the government of the Republic of Korea. CBP may continue to take appropriate action under paragraph (a) or (b) of this section until it receives information sufficient to enable it to make the determination described in paragraphs (a) and (b) of this section. CBP may make public the identity of a person that CBP has determined to be engaged in circumvention as provided under this section or that has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

**§ 10.1028 Issuance of negative origin determinations.**

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment under this subpart should be denied, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 33, HTSUS, and in §§ 10.1013 through 10.1025 of this subpart, the legal basis for the determination.

**§ 10.1029 Repeated false or unsupported preference claims.**

Where verification or other information reveals a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the UKFTA rules of origin set forth in General Note 33, HTSUS, CBP may suspend preferential tariff treatment under the UKFTA to entries of identical goods covered by subsequent statements, declarations, or certifications by that importer, exporter, or producer until CBP determines that representations of that person are in conformity with General Note 33, HTSUS.

**Penalties**

**§ 10.1030 General.**

Except as otherwise provided in this subpart, all criminal, civil, or administrative penalties which may be imposed on U.S. importers, exporters, and producers for violations of the customs and related U.S. laws and regulations will also apply to U.S. importers, exporters, and producers for violations of the U.S. laws and regulations relating to the UKFTA.

**§ 10.1031 Corrected claim or certification by importers.**

An importer who makes a corrected claim under § 10.1003(c) of this subpart will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for having made an incorrect claim or having submitted an incorrect certification, provided that the corrected claim is promptly and voluntarily made.

**§ 10.1032 Corrected certification by U.S. exporters or producers.**

Civil or administrative penalties provided for under 19 U.S.C. 1592 will not be imposed on an exporter or producer in the United States who promptly and voluntarily provides written notification pursuant to § 10.1009(b) with respect to the making of an incorrect certification.

**§ 10.1033 Framework for correcting claims or certifications.**

(a) *''Promptly and voluntarily'' defined.* Except as provided for in paragraph (b) of this section, for purposes of this subpart, the making of a corrected claim or certification by an importer or the providing of written notification of an incorrect certification by an exporter or producer in the United States will be deemed to have been done promptly and voluntarily if:

(1)(i) Done before the commencement of a formal investigation, within the meaning of § 162.74(g) of this chapter; or

(ii) Done before any of the events specified in § 162.74(i) of this chapter have occurred; or

(iii) Done within 30 days after the importer, exporter, or producer initially becomes aware that the claim or certification is incorrect; and

(2) Accompanied by a statement setting forth the information specified in paragraph (c) of this section; and

(3) In the case of a corrected claim or certification by an importer, accompanied or followed by a tender of any actual loss of duties and merchandise processing fees, if applicable, in accordance with paragraph (d) of this section.

(b) *Exception in cases involving fraud or subsequent incorrect claims.* (1) *Fraud.* Notwithstanding paragraph (a) of this section, a person who acted fraudulently in making an incorrect claim or certification may not make a voluntary correction of that claim or certification. For purposes of this paragraph, the term ''fraud'' will have the meaning set forth in paragraph (C)(3) of appendix B to part 171 of this chapter.

(2) *Subsequent incorrect claims.* An importer who makes one or more incorrect claims after becoming aware that a claim involving the same merchandise and circumstances is invalid may not make a voluntary correction of the subsequent claims pursuant to paragraph (a) of this section.

(c) *Statement.* For purposes of this subpart, each corrected claim or certification must be accompanied by a statement, submitted in writing or via an authorized electronic data interchange system, which:

(1) Identifies the class or kind of good to which the incorrect claim or certification relates;

(2) In the case of a corrected claim or certification by an importer, identifies each affected import transaction, including each port of importation and the approximate date of each importation;

(3) Specifies the nature of the incorrect statements or omissions regarding the claim or certification; and

(4) Sets forth, to the best of the person's knowledge, the true and accurate information or data which should have been covered by or provided in the claim or certification, and states that the person will provide any additional information or data which is unknown at the time of making the corrected claim or certification within 30 days or within any extension of that 30-day period as CBP may permit in order for the person to obtain the information or data.

(d) *Tender of actual loss of duties.* A U.S. importer who makes a corrected claim must tender any actual loss of duties at the time of making the corrected claim, or within 30 days thereafter, or within any extension of that 30-day period as CBP may allow in order for the importer to obtain the information or data necessary to calculate the duties owed.

**Goods Returned After Repair or Alteration**

**§ 10.1034 Goods re-entered after repair or alteration in Korea.**

(a) *General.* This section sets forth the rules which apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Korea as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Korea, regardless of whether the repair or alteration could be performed in the United States or has increased the value of the good and regardless of their origin, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, ''repairs or alterations'' means restoration, addition, renovation, re-dyeing, cleaning, re-sterilizing, or other treatment that does not destroy the essential characteristics of, or create a new or commercially different good from, the good exported from the United States.

(b) *Goods not eligible for duty-free treatment after repair or alteration.* The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Korea, are incomplete for their intended use and for which the processing operation performed in Korea constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of § 10.8(a), (b), and (c) of this part, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Korea after having been exported for repairs or alterations and which are claimed to be duty free.

## PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 4. The general authority citation for part 24 and specific authority for § 24.23 continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

■ 5. Section 24.23 is amended by adding paragraph (c)(12) to read as follows:

**§ 24.23 Fees for processing merchandise.**

* * * * *

(c) * * *

(12) The ad valorem fee, surcharge, and specific fees provided under paragraphs (b)(1) and (b)(2)(i) of this section will not apply to goods that qualify as originating goods under § 203 of the United States-Korea Free Trade Agreement (*see also* General Note 33, HTSUS) that are entered, or withdrawn from warehouse for consumption, on or after March 15, 2012.

## PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 6. The authority citation for part 162 continues to read in part as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

■ 7. Section 162.0 is amended by revising the last sentence to read as follows:

**§ 162.0 Scope.**

* * * Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, the Dominican Republic-Central America-U.S. Free Trade Agreement, the U.S.-Morocco Free Trade Agreement, the U.S.- Peru Trade Promotion Agreement, and the U.S.-Korea Free Trade Agreement are contained in Part 10, Subparts H, I, J, M, Q, and R of this chapter, respectively.

## PART 163—RECORDKEEPING

■ 8. The authority citation for part 163 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

■ 9. Section 163.1 is amended by redesignating paragraph (a)(2)(xiv) as (a)(2)(xv) and adding a new paragraph (a)(2)(xiv) to read as follows:

**§ 163.1 Definitions.**

* * * * *

(a) * * *

(2) * * *

(xiv) The maintenance of any documentation that the importer may

have in support of a claim for preferential tariff treatment under the United States-Korea Free Trade Agreement (UKFTA), including a UKFTA importer's certification.

* * * * *

■ 10. The appendix to part 163 is amended by adding a new listing under section IV in numerical order to read as follows:

**Appendix to Part 163—Interim (a)(1)(A) List**

* * * * *

IV. * * *

**§ 10.1005 UKFTA records that the importer may have in support of a UKFTA claim for preferential tariff treatment, including an importer's certification.**

* * * * *

## PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 11. The authority citation for part 178 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 12. Section 178.2 is amended by adding new listings for ''§§ 10.1003 and 10.1004'' to the table in numerical order to read as follows:

**§ 178.2 Listing of OMB control numbers.**

| 19 CFR Section | Description | OMB Control No. |
|---|---|---|
| * | * | * |
| §§ 10.1003 and 10.1004 | Claim for preferential tariff treatment under the US-Korea Free Trade Agreement. | 1651–0117 |
| * | * | * |

* * * * *

**David V. Aguilar,**

*Acting Commissioner, U.S. Customs and Border Protection.*

Approved: March 14, 2012.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 2012–6554 Filed 3–15–12; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 520

**[Docket No. FDA–2011–N–0003]**

## Oral Dosage Form New Animal Drugs; Pergolide

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Boehringer Ingelheim Vetmedica, Inc. The NADA provides for the veterinary prescription use of pergolide mesylate tablets in horses for the control of clinical signs associated with Pituitary Pars Intermedia Dysfunction (Equine Cushing's Disease).

**DATES:** This rule is effective March 19, 2012.

**FOR FURTHER INFORMATION CONTACT:** Amy L. Omer, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8336, email: *amy.omer@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Highway, St. Joseph, MO 64506–2002, filed NADA 141–331 for the veterinary prescription use in horses of PRASCEND (pergolide mesylate) Tablets for the control of clinical signs associated with Pituitary Pars Intermedia Dysfunction (Equine Cushing's Disease). The NADA is approved as of September 7, 2011, and 21 CFR part 520 is amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning on the date of approval.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

**List of Subjects in 21 CFR Part 520**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Add § 520.1705 to read as follows:

**§ 520.1705 Pergolide.**

(a) *Specifications.* Each tablet contains 1 milligram (mg) pergolide mesylate.

(b) *Sponsor.* See No. 000010 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer orally at a starting dose of 2 micrograms/kilograms (µ/kg) once daily. Dosage may be adjusted to effect, not to exceed 4 µg/kg daily.

(2) *Indications for use.* For the control of clinical signs associated with Pituitary Pars Intermedia Dysfunction (Equine Cushing's Disease).

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

Dated: March 14, 2012.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 2012–6544 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 520

**[Docket No. FDA–2011–N–0003]**

### Oral Dosage Form New Animal Drugs; Phenylpropanolamine

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Pegasus Laboratories, Inc. The NADA provides for the veterinary prescription use of phenylpropanolamine hydrochloride chewable tablets for the control of urinary incontinence due to urethral sphincter hypotonus in dogs.

**DATES:** This rule is effective March 19, 2012.

**FOR FURTHER INFORMATION CONTACT:** Lisa M. Troutman, Center for Veterinary Medicine (HFV–116), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8322, email: *lisa.troutman@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Pegasus Laboratories, Inc., 8809 Ely Rd., Pensacola, FL 32514, filed NADA 141–324 that provides for the veterinary prescription use of PROIN (phenylpropanolamine hydrochloride) Chewable Tablets for the control of urinary incontinence due to urethral sphincter hypotonus in dogs. The NADA is approved as of August 4, 2011, and the regulations are amended in 21 CFR part 520 to reflect the approval.

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

The agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning on the date of approval.

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

**List of Subjects in 21 CFR Part 520**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Add § 520.1760 to read as follows:

**§ 520.1760 Phenylpropanolamine.**

(a) *Specifications.* Each chewable tablet contains 25, 50, or 75 milligram (mg) phenylpropanolamine hydrochloride.

(b) *Sponsors.* See No. 055246 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 2 mg/kg of body weight twice daily.

(2) *Indications for use.* For the control of urinary incontinence due to urethral sphincter hypotonus in dogs.

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

Dated: March 14, 2012.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 2012–6553 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Chapter I

**[Docket No. FDA–2012–N–0222]**

### Revision of Organization and Conforming Changes to Regulations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing this final rule to amend the regulations to reflect organizational change in the Agency and to make other conforming changes. This action is editorial in nature and is intended to improve the accuracy of the Agency's regulations.

**DATES:** This rule is effective April 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Vanessa Starks, Human Capital Management, Food and Drug Administration, 19903 New Hampshire Ave., Silver Spring, MD 20903, 301–796–8846.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is issuing this final rule to amend its regulations by updating the organizational information in part 5 (21 CFR part 5).

The portion of this final rule updating the organizational information in part 5, subpart M is a rule of Agency organization, procedure, or practice. FDA is issuing these provisions as a final rule without publishing a general notice of proposed rulemaking because such notice is not required for rules of Agency organization, procedure, or practice under 5 U.S.C. 553(b)(3)(A). For the conforming changes to the other regulations, the Agency finds good cause under 5 U.S.C. 553(b)(3)(B) to dispense with prior notice and comment, and good cause under 5 U.S.C. 553(d)(3) to make these conforming changes effective less than 30 days after publication because such notice and comment and delayed effective date are unnecessary and contrary to the public interest. These conforming changes merely update the footnotes in part 5, subpart M. These changes do not result in any substantive change in the regulations.

**II. Analysis of Impacts**

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this final rule is

not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule simply updates the organizational information, it does not impose any additional costs on industry. Consequently, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $136 million, using the most current (2010) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

**III. Paperwork Reduction Act of 1995**

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

**IV. Environmental Impact**

FDA has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**V. Federalism**

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

**List of Subjects in 21 CFR Part 5**

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is revised to read as follows:

## PART 5—ORGANIZATION

**Subparts A–L—[Reserved]**

**Subpart M—Organization**

Sec.
5.1100 Headquarters.
5.1105 Chief Counsel, Food and Drug Administration.
5.1110 FDA Public Information Offices.

**Authority:** 5 U.S.C. 552; 21 U.S.C. 301–397.

## Subparts A–L—[Reserved]

## Subpart M—Organization

### § 5.1100 Headquarters.

The Food and Drug Administration consists of the following:

*Office of the Commissioner.*
*Office of Executive Secretariat.*
Office of the Chief Counsel.
Office of the Counselor to the Commissioner.
Office of Crisis Management.
Office of Emergency Operations.
Office of Policy and Planning.
Office of Policy.
Policy Development and Coordination Staff.
Regulations Policy and Management Staff.
Regulations Editorial Section.
Office of Planning.
Planning Staff.
Program Evaluation and Process Improvement Staff.
Economics Staff.
Risk Communications Staff.
Office of Legislation.
Office of External Affairs.
Web Communications Staff.
Office of External Relations.
Communications Staff.
Office of Public Affairs.
Office of Special Health Issues.
Office of Minority Health.
Office of Women's Health.
Office of the Chief Scientist.
Office of Counter-Terrorism and Emerging Threats.
Office of Scientific Integrity.
Office of Regulatory Science and Innovation.
Division of Science Innovation and Critical Path.
Division of Scientific Computing and Medical Information.
*Office of Scientific Professional Development.*
*National Center for Toxicological Research.*
Office of the Center Director.
Office of Management.
Office of Scientific Coordination.
Office of Research.
Division of Biochemical Toxicology.
Division of Genetic and Molecular Toxicology.
Division of Personalized Nutrition and Medicine.
Biometry Branch.
Pharmacogenomics Branch.
Division of Microbiology.
Division of Neurotoxicology.
Division of Systems Biology.
*Office of Operations.*
Office of Equal Employment Opportunity.
Conflict Prevention and Resolution Staff.
Compliance Staff.
Diversity Staff.
Office of Finance, Budget, and Acquisitions.
Office of Budget.
Office of Acquisitions and Grants Services.
Division of Acquisition Operations.
Division of Acquisition Support and Grants.
Division of Acquisition Programs.
Division of Information Technology.
Office of Financial Operations.
Office of Financial Management.
User Fees Staff.
Division of Accounting.
Division of Budget Execution and Control.
Office of Financial Services.
Payroll Staff.
Division of Payment Services.
Division of Travel Services.
Office of Information Management.
Division of Business Partnership and Support.
Division of Chief Information Officer Support.
Division of Systems Management.
Division of Infrastructure Operations.
Division of Technology.
Office of Management.
Ethics and Integrity Staff.
Office of Management Programs.
Office of Security Operations.
Office of Facilities, Engineering and Mission Support Services.
Jefferson Lab Complex Staff.
Business Operations and Initiatives Staff.
Division of Operations Management and Community Relations.
Auxiliary Program Management Branch.
Logistics and Transportation Management Branch.
Facilities Maintenance and

Operations Branch.
Division of Planning, Engineering, and Space Management.
Planning and Space Management Branch.
Employee Safety and Environmental Management Branch.
Engineering Management Branch.
Office of Library and Employee Services.
Employee Resource and Information Center.
FDA Biosciences Library.
Public Services Branch.
Technical Services Branch.
FDA History Office.
Division of Freedom of Information.
Division of Dockets Management.
*Office of Foods.*
*Center for Food Safety and Applied Nutrition.*
Office of the Center Director.
Executive Operations Staff.
International Staff.
Office of Management.
Safety Staff.
Division of Planning and Budget and Planning.
Division of Program Services.
Office of Food Defense, Communication and Emergency Response.
Division of Education and Communication.
Division of Public Health and Biostatistics.
Office of Food Safety.
Retail Food and Cooperative Program Support Staff.
Division of Seafood Science and Technology.
Chemical Hazard Branch.
Microbiological Hazard Branch.
Division of Food Processing Science and Technology.
Process Engineering Branch.
Food Technology Branch.
Division of Plant and Dairy Food Safety.
Plant Products Branch.
Dairy and Egg Branch.
Division of Seafood Safety.
Shellfish and Aquaculture Policy Branch.
Seafood Processing and Technology Policy Branch.
Office of Cosmetics and Colors.
Cosmetic Staff.
Division of Color Certification and Technology.
Office of Regulatory Science.
Division of Analytical Chemistry.
Methods Branch.
Spectroscopy and Mass Spectrometry Branch.
Division of Microbiology.
Microbial Methods and Development Branch.
Molecular Methods and Subtyping Branch.
Division of Bioanalytical Chemistry.
Bioanalytical Methods Branch.
Chemical Contaminants Branch.
Office of Food Additive Safety.
Division of Food Contact Notifications.
Division of Biotechnology and GRAS Notice Review.
Division of Petition Review.
Office of Compliance.
Division of Enforcement.
Division of Field Programs and Guidance.
Office of Applied Research and Safety Assessment.
Division of Molecular Biology.
Division of Virulence Assessment.
Division of Toxicology.
Office of Regulations, Policy, and Social Sciences.
Regulations and Special Government Employees Management Staff.
Division of Social Sciences.
Office of Nutrition, Labeling, and Dietary Supplements.
Nutrition Programs Staff.
Division of Dietary Supplement Programs.
*Center for Veterinary Medicine.*
Office of the Center Director.
Office of Management.
Management Logistics Staff.
Human Capital Management Staff.
Program and Resource Management Staff.
Talent Development Staff.
Budget Planning and Evaluation Staff.
Office of New Animal Drug Evaluation.
Division of Therapeutic Drugs for Non-Food Animals.
Division of Biometrics and Production Drugs.
Division of Therapeutic Drugs for Food Animals.
Division of Human Food Safety.
Division of Manufacturing Technologies.
Division of Scientific Support.
Division of Generic Animal Drugs.
Office of Surveillance and Compliance.
Division of Surveillance.
Division of Animal Feeds.
Division of Compliance.
Division of Veterinary Product Safety.
Office of Research.
Division of Residue Chemistry.
Division of Animal Research.
Division of Animal and Food Microbiology.
Office of Minor Use and Minor Species Animal Drug Development.
*Office of Medical Products and Tobacco.*
Office of Special Medical Programs.
Advisory Committee Oversight and Management Staff.
Good Clinical Practice Staff.
Office of Combination Products.
Office of Orphan Products Development.
Office of Pediatric Therapeutics.
*Center for Biologics Evaluation and Research.*
Office of the Center Director.
Regulations Policy Staff.
Quality Assurance Staff.
Office of Management.
Regulatory Information Management Staff.
Division of Planning, Evaluation, and Budget.
Division of Veterinary Services.
Division of Program Services.
Division of Scientific Advisors and Consultants.
Building Operations Staff.
Office of Compliance and Biologics Quality.
Division of Case Management.
Division of Inspections and Surveillance.
Division of Manufacturing and Product Quality.
Office of Biostatistics and Epidemiology.
Division of Biostatistics.
Division of Epidemiology.
Office of Information Management.
Division of Information Operations.
Division of Information Development.
Office of Blood Research and Review.
Policy and Publications Staff.
Division of Emerging and Transfusion Transmitted Diseases.
Division of Hematology.
Division of Blood Applications.
Office of Vaccines Research and Review.
Program Operation Staff.
Division of Product Quality.
Division of Bacterial, Parasitic, and Allergenic Products.
Division of Viral Products.
Division of Vaccines and Related Product Applications.
Office of Cellular, Tissue, and Gene Therapies.
Regulatory Management Staff.
Division of Cellular and Gene Therapies.
Division of Clinical Evaluation and Pharmacology/Toxicology.
Division of Human Tissues.
Office of Communication, Outreach and Development.
Division of Disclosure and Oversight Management.
Division of Manufacturers Assistance and Training.
Division of Communication and Consumer Affairs.
*Center for Devices and Radiological Health.*
Office of the Center Director.
Regulations Staff.
Office of Management Operations.
Division of Ethics and Management Operations.
Human Resource and Administrative

Management Branch.
Integrity, Conference and Committee Management Branch.
Division of Planning, Analysis and Finance.
Planning Branch.
Financial Management Branch.
Office of Compliance.
Promotion and Advertising Policy Staff.
Program Management Staff.
Quality Management Program Staff.
Division of Bioresearch Monitoring.
Program Enforcement Branch A.
Program Enforcement Branch B.
Special Investigations Branch.
Division of Risk Management Operations.
Field Programs Branch.
Recall Branch.
Regulatory Policy Branch.
Division of Enforcement.
General Surgery Devices Branch.
Dental Ear, Nose, Throat and Ophthalmic Devices Branch.
Gastroenterology and Urology Branch.
General Hospital Devices Branch.
Division of Enforcement B.
Radiology, Anesthesiology, and Neurology Devices Branch.
Cardiac Rhythm and Electrophysiology Devices Branch.
Vascular and Circulatory Support Devices Branch.
Orthopedic and Physical Medicine Devices Branch.
Office of Device Evaluation.
Program Management Staff.
Program Operations Staff.
Pre-Market Approval Staff.
Investigational Device Exemption Staff.
Pre-Market Notification Section.
Division of Cardiovascular Devices.
Circulatory Support and Prosthetic Branch.
Interventional Cardiology Devices Branch.
Pacing, Defibrillators, and Leads Branch.
Cardiac Electrophysiology and Monitoring Devices Branch.
Peripheral Scads Vascular Devices Branch.
Division of Reproductive, Gastro-Renal, and Urological Devices.
Gynecology Devices Branch.
Urology and Lithotripsy Devices Branch.
Gastroenterology and Renal Devices Branch.
Division of Surgical, Orthopedic, and Restorative Devices.
General Surgery Devices Branch.
Restorative Devices Branch.
Plastic and Reconstructive Surgery Devices Branch.
Orthopedic Joint Devices Branch.
Orthopedic Spine Devices Branch.
Division of Ophthalmic, Neurological, and Ear, Nose, and Throat Devices.
Intraocular, Corneal, and Neuromaterial Devices Branch.
Ophthalmic Laser, Neuromuscular Stimulators, and Diagnostic Devices Branch.
Neurodiagnostic and Neurotherapeutic Devices Branch.
Ear, Nose, and Throat Devices Branch.
Division of Anesthesiology, General Hospital, Infection Control, and Dental Devices.
General Hospital Devices Branch.
Infection Control Devices Branch.
Dental Devices Branch.
Anesthesiology and Respiratory Devices Branch.
Office of Science and Engineering Laboratories.
Management Support Staff.
Division of Biology.
Division of Chemistry and Materials Science.
Division of Solid and Fluid Mechanics.
Division of Physics.
Division of Imaging and Applied Mathematics.
Division of Solid and Fluid Mechanics.
Division of Electrical and Software Engineering.
Office of Communication, Education and Radiation Programs.
Program Operations Staff.
Staff College.
Division of Health Communication.
Web Communication Branch.
Risk Communication Branch.
Division of Small Manufacturers International and Consumer Assistance.
Technical Assistance Branch.
International Relations and External Affairs Staff.
Regulatory Assistance Branch.
Division of Mammography Quality and Radiation Programs.
Inspection and Compliance Branch.
Information Management Branch.
Diagnostic Devices Branch.
Electronic Devices Branch.
Division of Communication Media.
Television Design and Development Branch.
Division of Freedom of Information.
Freedom of Information Branch A.
Freedom of Information Branch B.
Office of Surveillance and Biometrics.
Program Management Staff.
Division of Biostatistics.
Cardiovascular and Ophthalmic Devices Branch.
Diagnostic Devices Branch.
General and Surgical Devices Branch.
Division of Postmarket Surveillance.
Product Evaluation Branch 1.
Product Evaluation Branch 2.
Information Analysis Branch.
MDR Policy Branch.
Division of Patient Safety Partnership.
Patient Safety Branch 1.
Patient Safety Branch 2.
Division of Epidemiology.
Epidemiology Evaluation and Research Branch 1.
Epidemiology Evaluation and Research Branch 2.
Office of In Vitro Diagnostic Device Evaluation and Safety.
Division of Chemistry and Toxicology Devices.
Division of Immunology and Hematology Devices.
Division of Microbiology Devices.
Division of Radiological Devices.
*Center for Drug Evaluation and Research.*
Office of the Center Director.
Controlled Substances Staff.
Safe Use Staff.
Office of Regulatory Policy.
Division of Regulatory Policy I.
Division of Regulatory Policy II.
Division of Regulatory Policy III.
Division of Information Disclosure Policy.
Office of Management.
Division of Management and Budget.
Planning and Resource Management Branch.
Management Analysis Branch.
Division of Management Services.
Program Management Services Branch.
Interface Management Branch.
Office of Communications.
Division of Online Communications.
Division of Health Communications.
Division of Drug Information.
Office of Surveillance and Epidemiology.
Regulatory Science Staff.
Regulatory Affairs Staff.
Executive Operations and Strategic Planning Staff.
Technical Information Staff.
Program Management and Analysis Staff.
Project Management Staff.
Office of Medication Error Prevention.
Division of Medication Error Prevention and Analysis.
Division of Risk Management.
Office of Pharmacovigilance and Epidemiology.
Division of Epidemiology I.
Division of Epidemiology II.
Division of Pharmacovigilance I.
Division of Pharmacovigilance II.
Office of Compliance.
Office of Drug Security, Integrity, and Recalls.
Division of Import Operations and Recalls.
Recall Coordination Branch.
Import Operations Branch.

Division of Supply Chain Integrity.
Office of Unapproved Drugs and Labeling Compliance.
Division of Prescription Drugs.
Prescription Drugs Branch.
Compounding and Pharmacy Practice Branch.
Division of Non-Prescription Drugs and Health Fraud.
Over-the-Counter Drugs Branch.
Health Fraud and Consumer Outreach Branch.
Office of Manufacturing and Product Quality.
Division of International Drug Quality.
International Compliance Branch I.
International Compliance Branch II.
Division of Domestic Drug Quality.
Domestic Compliance Branch 1.
Domestic Compliance Branch 2.
Division of Policy, Collaboration, and Data Operations.
Regulatory Policy and Communications Branch.
Drug Surveillance and Data Reporting Branch.
Division of GMP Assessment.
Biotech Manufacturing Assessment Branch.
New Drug Manufacturing Assessment Branch.
Generic Drug Manufacturing Assessment Branch.
Office of Scientific Investigations.
Division of Bioequivalence and Good Laboratory Practice Compliance.
Good Laboratory Practice Branch.
Bioequivalence Branch.
Division of Good Clinical Practice Compliance.
Good Clinical Practice Enforcement Branch
Good Clinical Practice Assessment Branch
Division of Safety Compliance.
Post Market Safety Branch.
Human Subject Protection Branch.
Office of New Drugs.
Pediatric and Maternal Health Staff.
Program Management Analysis Staff.
Office of Drug Evaluation I.
Division of Cardiovascular and Renal Products.
Division of Neurology Products.
Division of Psychiatry Products.
Office of Drug Evaluation II.
Division of Metabolism and Endocrinology Products.
Division of Pulmonary, Allergy, and Rheumatology Products.
Division of Anesthesia, Analgesia, and Addiction Products.
Office of Drug Evaluation III.
Division of Gastroenterology and Inborn Effects Products.
Division of Reproductive and Urologic Products.
Division of Dermatology and Dental Products.
Office of Antimicrobial Products.
Division of Anti-Infective Products.
Division of Anti-Viral Products.
Division of Transplant and Ophthalmology Products.
Office of Drug Evaluation IV.
Division of Nonprescription Clinical Evaluation.
Division of Nonprescription Regulation Development.
Division of Medical Imaging Products.
Office of Hematology and Oncology Drug Products.
Division of Oncology Products 1.
Division of Oncology Products 2.
Division of Hematology Products.
Division of Hematology Oncology Toxicology.
Office of Pharmaceutical Science.
Program Activities Review Staff.
Operations Staff.
Science and Research Staff.
New Drug Microbiology Staff.
Office of Generic Drugs.
Division of Bioequivalence 1.
Division of Bioequivalence 2.
Division of Labeling and Program Support.
Labeling Review Branch.
Regulatory Branch.
Review Support Branch.
Division of Chemistry I.
Division of Chemistry II.
Division of Chemistry III.
Division of Chemistry IV.
Division of Clinical Review.
Division of Microbiology.
Office of New Drug Quality Assessment.
Division of New Drug Quality Assessment I.
Branch I.
Branch II.
Branch III.
Division of New Drug Quality Assessment II.
Branch IV.
Branch V.
Branch VI.
Division of New Drug Quality Assessment III.
Branch VII.
Branch VIII.
Branch IX.
Office of Testing and Research.
Division of Drug Safety Research.
Division of Pharmaceutical Analysis.
Division of Product Quality Research.
Office of Biotechnology Products.
Division of Monoclonal Antibodies.
Division of Therapeutic Protein.
Office of Medical Policy.
Office of Prescription Drug Promotion.
Division of Consumer Drug Promotion.
Division of Professional Drug Promotion.
Office of Medical Policy Initiatives.
Division of Medical Policy Development.
Division of Medical Policy Programs.
Office of Executive Programs.
Division of Training and Development.
Training and Development Branch I.
Training and Development Branch II.
Division of Executive Operations.
Division of Advisory Committee and Consultant Management.
Office of Translational Science.
Office of Biostatistics.
Division of Biometrics I.
Division of Biometrics II.
Division of Biometrics III.
Division of Biometrics IV.
Division of Biometrics V.
Division of Biometrics VI.
Division of Biometrics VII.
Office of Clinical Pharmacology.
Division of Clinical Pharmacology I.
Division of Clinical Pharmacology II.
Division of Clinical Pharmacology III.
Division of Clinical Pharmacology IV.
Division of Clinical Pharmacology V.
Division of Pharmacometrics.
Office of Counter-Terrorism and Emergency Coordination.
Office of Planning and Informatics.
Office of Planning and Analysis.
Office of Business Informatics.
Division of Records Management.
Division of Regulatory Review Support.
Division of Business Analysis and Reporting.
Division of Project Development.
*Center for Tobacco Products.*
*Office of the Center Director.*
*Office of Management.*
*Office of Policy.*
*Office of Regulations.*
*Office of Science.*
*Office of Health Communication and Education.*
*Office of Compliance and Enforcement.*
*Office of Global Regulatory Operations and Policy.*
*Office of International Programs.*
*Office of Regulatory Affairs.*
*Office of Resource Management.*
Division of Planning, Evaluation, and Management.
Program Planning and Workforce Management Branch.
Program Evaluation Branch.
Division of Human Resource Development.
Division of Management Operations.
Office of Enforcement.
Division of Compliance Management and Operations.
Division of Compliance Policy.
Division of Compliance Information and Quality Assurance.
Office of Regional Operations.

Division of Federal-State Relations.
State Contracts Staff.
State Information Staff.
Public Affairs and Health Fraud Staff.
Division of Field Science.
FERN National Program Branch.
Scientific Compliance and Regulatory Review Branch.
Laboratory Operations Branch.
Division of Import Operations and Policy.
Systems Branch.
Operations and Policy Branch.
Division of Foreign Field Investigations.
International Operations Branch.
Foreign Food Branch.
Foreign Drug Branch.
Foreign Devices Branch.
Division of Domestic Field Investigations.
Team Biologics Staff.
National Expert Staff.
Domestic Operations Branch.
Division of Food Defense Targeting.
Office of Criminal Investigations.
Mid-Atlantic Area Office.
Midwest Area Office.
Northeast Area Office.
Pacific Area Office.
Southeast Area Office.
Southwest Area Office.
Regional Food and Drug Directors.
Regional Field Office, Central Region, Chicago, IL.
State Cooperative Programs Staff I.
State Cooperative Programs Staff II.
Regional Operations Staff.
District Office, Baltimore, MD.
Compliance Branch.
Investigations Branch.
District Office, Cincinnati, OH.
Compliance Branch.
Investigations Branch.
Forensic Chemistry Center.
Inorganic Chemistry Branch.
Organic Chemistry Branch.
District Office, Parsippany, NJ
Compliance Branch.
Investigations Branch.
District Office, Philadelphia, PA.
Compliance Branch.
Investigations Branch.
Laboratory Branch.
District Office, Chicago, IL.
Compliance Branch.
Investigations Branch.
District Office, Minneapolis, MN.
Compliance Branch.
Investigations Branch.
District Office, Detroit, MI.
Compliance Branch.
Investigations Branch.
Laboratory Branch.
Regional Field Office, Northeast Region, Jamaica, NY.
Operations Staff.
Intergovernmental Affairs Staff.
District Office, New York.
Domestic Compliance Branch.
Domestic Investigations Branch.
Import Operations Branch (Downstate).
Import Operations Branch (Upstate).
Northeast Regional Laboratory.
Microbiological Science Branch.
Food Chemistry Branch.
Drug Chemistry Branch.
District Office New England.
Compliance Branch.
Investigations Branch.
Winchester Engineering and Analytical Center.
Analytical Branch.
Engineering Branch.
Regional Field Office, Pacific Region, Oakland, CA.
District Office, San Francisco, CA
Compliance Branch.
Investigations Branch.
Laboratory Branch.
District Office, Los Angeles, CA.
Compliance Branch.
Domestic Investigations Branch.
Import Operations Branch.
District Office, Seattle, WA.
Compliance Branch.
Investigations Branch.
Pacific Regional Laboratory Southwest Los Angeles, CA.
Food Chemistry Branch.
Drug Chemistry Branch.
Microbiology Branch.
Pacific Regional Laboratory Northwest Bothell, WA.
Chemistry Branch.
Microbiology Branch.
Seafood Products Research Center.
Regional Field Office, Southeast Region, Atlanta, GA.
District Office, Atlanta, GA.
Compliance Branch.
Investigations Branch.
District Office, FL.
Compliance Branch.
Investigations Branch.
District Office, New Orleans, LA.
Compliance Branch.
Investigations Branch.
Nashville Branch.
District Office, San Juan, PR.
Compliance Branch.
Investigations Branch.
Laboratory Branch.
Southeast Regional Laboratory, Atlanta, GA.
Chemistry Branch I.
Microbiology Branch.
Atlanta Center for Nutrient Analysis.
Chemistry Branch II.
Regional Field Office, Southwest Region.
District Office, Dallas, TX.
Compliance Branch.
Investigations Branch.
District Office, Kansas City, MO.
Compliance Branch.
Investigations Branch.
Science Operations Branch.
Total Diet and Pesticide Research Center.
District Office, Denver, CO.
Compliance Branch.
Investigations Branch.
Laboratory Branch.
Arkansas Regional Laboratory.
General Chemistry Branch.
Pesticide Chemistry Branch.
Microbiology Branch.
Southwest Import District Office, Dallas, TX.
Compliance Branch.
Investigations Branch.

**§ 5.1105 Chief Counsel, Food and Drug Administration.**

The Office of the Chief Counsel's mailing address is White Oak Bldg. 1, 10903 New Hampshire Ave., Silver Spring, MD 20993.

**§ 5.1110 FDA public information offices.**

(a) *Division of Dockets Management.* The Division of Dockets Management public room is located in rm. 1061, 5630 Fishers Lane, Rockville, MD 20852, Telephone: 301–827–6860.

(b) *Division of Freedom of Information.* The Division of Freedom of Information public room is located in rm. 1050, Element Bldg., 12420 Parklawn Dr., Rockville, MD 20857, Telephone: 301–796–3900.

(c) *Press Relations Staff.* Press offices are located in White Oak Bldg. 1, 10903 New Hampshire Ave., Silver Spring, MD 20993, Telephone: 301–827–6242; and at 5100 Paint Branch Pkwy., College Park, MD 20740, Telephone: 301–436–2335.

Dated: March 14, 2012.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2012–6517 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[FRL–9646–5]**

## Ohio: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is granting Ohio final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The agency published a proposed rule on September 14, 2011 at

76 FR 56708 and provided for public comment. The public comment period ended on October 14, 2011. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization. We now make a final decision to authorize Ohio's changes through this final action.

**DATES:** The final authorization will be effective on March 19, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R05–RCRA–2011–0530. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some of the information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy.

Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy. You may view and copy Ohio's application from 9 a.m. to 4 p.m. at the following addresses: U.S. EPA Region 5, LR–8J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Gary Westefer (312) 886–7450; or Ohio Environmental Protection Agency, Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio, contact: Kit Arthur (614) 644–2932.

**FOR FURTHER INFORMATION CONTACT:** Gary Westefer, Ohio Regulatory Specialist, U.S. EPA Region 5, LR–8J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450, e-mail *westefer.gary@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

**A. Why are revisions to state programs necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, States must change their programs and request EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What decisions have we made in this rule?**

We conclude that Ohio's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Ohio final authorization to operate its hazardous waste program with the changes described in the authorization application. Ohio has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Ohio, including issuing permits, until the state is granted authorization to do so.

**C. What is the effect of this authorization decision?**

The effect of this decision, once finalized, is that a facility in Ohio subject to RCRA would have to comply with the authorized state requirements instead of the equivalent federal requirements in order to comply with RCRA. Ohio has enforcement responsibilities under its state hazardous waste program for RCRA violations, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

1. Do inspections, and require monitoring, tests, analyses or reports; and

2. Enforce RCRA requirements and suspend or revoke permits

3. Take enforcement actions regardless of whether the state has taken its own actions

This action will not impose additional requirements on the regulated community because the regulations for which Ohio is being authorized are already effective, and will not be changed by EPA's final action.

**D. Proposed Rule**

On September 14, 2011 (76 FR 56708), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Ohio's hazardous waste program and opened our decision to public comment. The agency received no comments on this proposal. EPA found Ohio's RCRA program to be satisfactory.

**E. What has Ohio previously been authorized for?**

Ohio initially received final authorization on June 28, 1989, effective June 30, 1989 (54 FR 27170) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on April 8, 1991, effective June 7, 1991 (56 FR 14203) as corrected June 19, 1991, effective August 19,1991 (56 FR 28088); July 27, 1995, effective September 25, 1995 (60 FR 38502); October 23, 1996, effective December 23, 1996 (61 FR 54950); January 24, 2003, effective January 24, 2003 (68 FR 3429); January 20, 2006, effective January 20, 2006 (71 FR 3220), and October 29, 2007, effective October 29, 2007 (72 FR 61063).

**F. What changes are we proposing with today's action?**

On May 9, 2011, Ohio submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, that Ohio's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we are granting Ohio final authorization for the following program changes (a table with the complete state analogues is provided in the September 14, 2011 proposed rule):

Amendments to Land Disposal Restrictions for First Third Scheduled Wastes Checklist 50.1, February 27, 1989 (54 FR 8264);

Changes to Part 124 Not Accounted for by Present Checklists, Checklist 70, April 1, 1983 (48 FR 14146); June 30, 1983 (48 FR 30113); July 26, 1988 (53 FR 28118); September 26, 1988 (53 FR 37396); January 4, 1989 (54 FR 246);

NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections, Checklist 188.1, May 14, 2001 (66 FR 24270);

NESHAPS: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule), Checklist 197, February 13, 2002 (67 FR 6792);

NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule, Checklist 198, February 14, 2002 (67 FR 6968);

Hazardous Waste Management System; Definition of Solid Waste; Toxicity Characteristic, Checklist 199, March 13, 2002 (67 FR 11251);

NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors—Corrections, Checklist 202, December 19, 2002 (67 FR 77687);
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards, Checklist 203, July 30, 2003 (68 FR 44659);
Hazardous Waste—Nonwastewaters From Production of Dyes, Pigments, and Food, Drug and Cosmetic Colorants; Mass Loadings-Based Listing; Final Rule, Checklist 206, February 24, 2005 (70 FR 9138);
Hazardous Waste—Nonwastewaters From Production of Dyes, Pigments, and Food, Drug and Cosmetic Colorants; Mass Loadings-Based Listing; Correction, Checklist 206.1, June 16, 2005 (70 FR 35032);
Hazardous Waste Management System, Modification of the Hazardous Waste Manifest System; Final Rule, Checklist 207, March 4, 2005 (70 FR 10776);
Hazardous Waste Management System, Modification of the Hazardous Waste Manifest System; Correction, Checklist 207.1, June 16, 2005 (70 FR 35034);
Waste Management System; Testing and Monitoring Activities; Final Rule: Methods Innovation Rule and SW–846 Final Update IIIB, Checklist 208, June 14, 2005 (70 FR 34538);
Waste Management System; Testing and Monitoring Activities; Final Rule: Methods Innovation Rule and SW–846 Final Update IIIB; Correction, Checklist 208.1, August 1, 2005 (70 FR 44150);
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures; (''Headworks Exemptions''), Checklist 211, October 4, 2005 (70 FR 57769);
National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II), Checklist 212, October 12, 2005 (70 FR 59402);
Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations, Checklist 214, July 14, 2006 (71 FR 40254);

EQUIVALENT STATE INITIATED CHANGES

| Ohio amendment | Description of change | Sections affected and effective date |
|---|---|---|
| Rule Review per 119.032 | ..... | OAC 3745–50–31; 3745–50–47; 3745–54–56; 3745–54–77.<br>Effective May 13, 2007. |
| Housekeeping Rules Set I. | ..... | OAC 3745–50–10; 3745–50–11; 3745–50–40 3745–50–51; 3745–50–235; 3745–51–03; 3745–51–04; 3745–51–05; 3745–51–20; 3745–51–22; 3745–51–24; 3745–51–30; 3745–51–35; 3745–51–38; 3745–52–10; 3745–52–21; 3745–52–27; 3745–52–32; 3745–52–33; 3745–52–34; 3745–52–41; 3745–52–54; 3745–53–20; 3745–53–21; 3745–54–18; 3745–54–71; 3745–54–72; 3745–54–98; 3745–55–47; 3745–55–90; 3745–55–99; 3745–57–14; 3745–57–83; 3745–57–91; 3745–65–72; 3745–66–41; 3745–66–90; 3745–67–73; 3745–68–14; 3745–68–40; 3745–256–100; 3745–266–80; 3745–266–103; 3745–266–106; 3745–270–01; 3745–270–40; 3745–270–48; 3745–279–44; 3745–279–53; 3745–279–55; 3745–279–63.<br>Effective February 16, 2009. |

**G. Which revised state rules are different from the federal rules?**

Ohio has excluded the non-delegable federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3. EPA will continue to implement those requirements. In this action, because Ohio has not received statutory authority for Subparts AA, BB and CC of 40 CFR Part 264, they have not adopted the rules for the 40 CFR Subpart BB portion in checklist 212 (located in the table above). This will be added at a later date. Checklist 214 in the above table appeared in the **Federal Register** on July 14, 2006 (71 FR 40254) as a Federal regulation that corrected numerous errors that had appeared in the Code of Federal Regulations over several years. Not all of the amendments in the July 14 **Federal Register** are reflected in this Ohio rules effective date or in the current Authorization Revision Application. Since the July 14 **Federal Register** includes several hundred amendments, it was broken into several rule-makings in Ohio. This is the first of these rule-makings. Subsequent rule-makings will address the balance of the corrections. A number of these federal corrections had already been made in the state rules, so not all the federal changes made in the July 14 FR resulted or will result in Ohio rule amendments attributable to the July 14 FR. Ohio has corrected the errors in the sections cited in Checklist 214 above, additional corrections will be noted in future **Federal Registers** as State Initiated Changes to Checklist 214.

**H. Who handles permits after the authorization takes effect?**

Ohio will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Ohio is not yet authorized.

**I. How does today's action affect Indian Country (18 U.S.C. 1151) in Ohio?**

Ohio is not authorized to carry out its hazardous waste program in ''Indian Country,'' as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian Reservations within or abutting the State of Ohio;

2. Any land held in trust by the U.S. for an Indian tribe; and

3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, EPA retains the authority to implement and administer the RCRA program in Indian Country.

**J. What is codification and is EPA codifying Ohio's hazardous waste program as authorized in this rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized state rules in 40 CFR part 272. Ohio's rules, up to and including those revised June 7, 1991, as corrected August 19, 1991, have previously been codified through the

incorporation-by-reference effective February 4, 1992 (57 FR 4162) . We reserve the amendment of 40 CFR part 272, subpart KK for the codification of Ohio's program changes until a later date.

**K. Statutory and Executive Order Reviews**

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by state law (see **SUPPLEMENTARY INFORMATION**, Section A. Why are revisions to state programs necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

*1. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review*

The Office of Management and Budget has exempted this rule from its review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821 January 21, 2011).

*2. Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*3. Regulatory Flexibility Act*

This rule authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those required by state law. Accordingly, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*4. Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

*5. Executive Order 13132: Federalism*

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (*i.e.,* 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).

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

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (*i.e.,* substantial direct effects on one or more Indian tribes, or 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.)

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

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because the EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

*9. National Technology Transfer Advancement Act*

EPA approves state programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a state program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. 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 to this rule.

*10. Executive Order 12988*

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), 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.

*11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings*

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) 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.

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

Because this rule authorizes pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

*13. Congressional Review Act*

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register.** A major rule cannot take effect until sixty (60) days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final authorization will be effective March 19, 2012.

**List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 29, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012–6563 Filed 3–16–12; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

## 49 CFR Part 1244

**[Docket No. EP 646 (Sub-No 3)]**

## Waybill Data Released in Three-Benchmark Rail Rate Proceedings

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Final rule.

**SUMMARY:** When a shipper files a formal complaint that a railroad's rate is too high, the Surface Transportation Board (Board) must determine whether the challenged rate is reasonable. To present its case using the Board's procedures for small cases, the complaining shipper needs to obtain from the Board confidential information that the Board collects regarding the rates that the defendant railroad charges other shippers for similar shipments. Pursuant to the notice of proposed rulemaking published in the **Federal Register** on October 27, 2010, the Board is formalizing its rules with respect to the Three-Benchmark methodology for adjudicating simplified rate case complaints, making the most recent four years of this confidential information available to parties and permitting the parties to use any combination of the four years of confidential information when presenting their cases.

**DATES:** Effective March 12, 2012.

**FOR FURTHER INFORMATION CONTACT:** Scott Zimmerman at (202) 245–0386. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Board is formalizing its rules with respect to the Three-Benchmark methodology used to adjudicate simplified rate case complaints. Under the rule we are adopting here, the Board will release to the parties in Three-Benchmark proceedings the unmasked Carload Waybill Sample data (Waybill Sample data) [1] of the defendant carrier for the four years that correspond with the most recently published Revenue Shortfall Allocation Method (RSAM) figures. The parties may then form their traffic comparison groups by choosing the movements from the released four-year Waybill Sample data that they believe are the most comparable to the issue movements.

## Background

In *Simplified Standards for Rail Rate Cases* (*Simplified Standards*), EP 646 (Sub-No. 1) (STB served Sept. 5, 2007), *aff'd sub nom. CSX Transp., Inc.* v. *STB* (*CSXT I*), 568 F.3d 236 (DC Cir. 2009), *vacated in part on reh'g, CSX Transp., Inc.* v. *STB* (*CSXT II*), 584 F.3d 1076 (DC Cir. 2009),the Board modified its simplified rail rate guidelines, creating a Simplified Stand-Alone Cost approach for medium-size rail rate disputes and revising its Three-Benchmark approach for smaller rail rate disputes.

The Three-Benchmark method, originally promulgated in 1996,[2] compares a challenged rate of the ''issue traffic'' (the traffic at issue in the case), measured as the ratio of the traffic's revenues to variable costs (R/VC ratio), to the R/VC ratios of a comparison group of traffic ($R/VC_{COMP}$) drawn from the Waybill Sample data of the defendant carrier.[3] Under the Three-Benchmark method as revised in *Simplified Standards,* each party creates and proffers to the Board a proposed comparison group ($R/VC_{COMP}$), and the Board selects the one that it concludes is most similar in the aggregate to the issue movements. The Board then applies a ''revenue adequacy adjustment'' (the ratio of RSAM ÷ $R/VC_{>180}$) to each movement in the comparison group and calculates the mean and standard deviation of the resulting R/VC ratios. If the challenged rate exceeds a reasonable confidence interval around the estimated mean, it will be presumed unreasonable, and, absent any ''other relevant factors,'' the maximum lawful rate will be prescribed at that boundary level.

The rule proposed in *Simplified Standards* would have required parties to draw their traffic comparison groups from the most recently available one year of Waybill Sample data derived from the defendant carrier's shipments of non-issue traffic. *Simplified Standards,* slip op. at 32–33 (STB served July 28, 2006) (Notice of Proposed Rulemaking). The final rule, however, allowed parties to form comparison groups using Waybill Sample data from the four years that correspond with the most recently published RSAM figures. *Simplified Standards,* slip op. at 80.

On judicial review, the court concluded that the Board had failed to provide adequate notice of the final rule regarding the available date range of Waybill Sample data. Accordingly, the court vacated that portion of *Simplified Standards. CSX II,* 584 F.3d at 1078. As a result, there is currently a gap in the Board's rules; *i.e.,* there is no defined period for which unmasked Waybill Sample data is to be released in a Three-Benchmark proceeding.[4]

On April 2, 2010, the Board issued a notice of proposed rulemaking for a rule that would provide to the parties in Three-Benchmark proceedings the unmasked Waybill Sample data of the defendant carrier for the four years that correspond with the most recently published RSAM figures. The parties would then draw their comparison groups in any combination they choose from the released Waybill Sample data. The Board received comments on this proposal from shippers, rail carriers, the U.S. Department of Agriculture, and other interested organizations.[5] AAR, CP and NSR/CSXT expressed concern that the Board did not provide the rationales and regulatory objectives behind the proposed rules. In response, on October 22, 2010, the Board published a revised notice, which proposed rules identical to those proposed on April 2, 2010, and

[1] The Carload Waybill Sample is a sample of carload waybills for shipments by all rail carriers that terminate at least 4,500 carloads or 5% of the carloads in any one state. The Waybill Sample identifies originating and terminating freight stations, the names of all railroads participating in the movement, the point of all railroad interchanges, the number of cars, the car types, the weight in tons, the commodity type, and the freight revenues. The names of the shipper and consignee are not included in the data set. Other data in the sample, however, may permit the identification of a shipper and consignee. Therefore, railroads may encrypt, or ''mask,'' revenue information associated with contract shipments to safeguard the confidentiality of the contract rates, as required by 49 U.S.C. 11904.

[2] *Rate Guidelines—Non-Coal Proceedings,* 1 S.T.B. 1004 (1996) (*Simplified Guidelines*).

[3] In addition to the $R/VC_{COMP}$ benchmark, the two other benchmarks in the Three-Benchmark methodology are RSAM and $R/VC_{>180}$. The RSAM benchmark measures the average markup that the rail carrier would need to charge all of its ''potentially captive'' traffic to earn adequate revenues, as measured by the Board under 49 U.S.C. 10704(a)(2). The R/VC>180 benchmark measures the average markup over variable costs currently earned by the defendant carrier on its potentially captive traffic. ''Potentially captive'' traffic is all traffic priced at or above the 180% R/VC level, which is the statutory floor for regulatory rail rate intervention. *See Simplified Standards for Rail Rate Cases-2009 RSAM and* $R/VC_{>180}$ *Calculations,* EP 689 (Sub-No. 2), slip op. at 1 (STB served July 14, 2011) (*2009 RSAM and* $R/VC_{>180}$ *Calculations). See also* 49 U.S.C. 10707(d).

[4] Prior agency precedent is not definitive. The 1996 *Simplified Guidelines* decision did not discuss how many years of Waybill Sample data the Board would release to the parties. The Interstate Commerce Commission's decision in *McCarty Farms* v. *Burlington Northern Inc.,* 4 I.C.C.2d 262 (1988), relied on by shippers, was reversed on appeal in *Burlington Northern Railroad* v. *ICC,* 985 F.2d 589 (DC Cir. 1993), and the letter issued June 8, 2005 in *B.P. Amoco Chemical Co.* v. *Norfolk Southern Railway,* NOR 42093, cited in NSR's and CSXT's June 1, 2010 reply comments (at 11), was an unpublished letter ruling by Board staff; hence, neither is precedential.

[5] Initial and Reply comments on the April 2, 2010 notice of proposed rulemaking were filed jointly by American Chemistry Council, Fertilizer Institute, National Grain And Feed Association, The National Industrial Transportation League, Consumers United for Rail Equity, American Forest and Paper Association, Glass Producers Transportation Council, Alliance for Rail Competition and Montana Wheat and Barley Commission (collectively Shippers); jointly by Norfolk Southern Railway Company (NSR) and CSX Transportation, Inc. (CSXT) (collectively, NS/CSXT); and by Canadian Pacific Railway Company (CP), Association of American Railroads (AAR), and U.S. Department of Agriculture (USDA). CSXT also filed separate reply comments. We cite to these comments as ''Initial'' or ''Reply.''

included an expanded explanation of the rationales and regulatory objectives behind the proposed rules. Following publication, the Board received additional comments from rail carriers, shippers, and other interested organizations.[6] Although the final rules adopted in this decision are identical to those published in the two previous notices, the Board responds in further detail to the comments received in response to the April 2, 2010 and October 22, 2010 notices.

AAR and the commenting rail carriers object to permitting shippers to draw their comparison group from the four most recently available years of Waybill Sample data, because of what they characterize as ''regulatory lag.'' [7] They argue that even the most recent one year of Waybill Sample data is unlikely to reflect current market conditions because the data may be up to two years old by the time the Board publishes the Waybill Sample. They contend that the proposed rule increases the likelihood of distorted comparison groups and results by permitting parties to use six-year old data.[8] AAR further contends that the Board can address any issues of data insufficiency in individual cases from the one-year data release by requiring the carrier to provide its traffic tapes for all movements of the commodity at issue for the current period.[9]

Shippers, on the other hand, generally support adoption of the four-year Waybill Sample data rule. They argue that using multiple years of Waybill Sample data will smooth out the effects of short term variations in prices and costs that make up the data. They also claim that it is necessary to permit the use of four years of Waybill Sample data because a single year's traffic may not contain sufficient data from which to derive meaningful or representative comparison groups. Shippers maintain that the Board should require, rather than merely permit, parties to incorporate data from each year of the current four-year Waybill Sample data in developing their $R/VC_{COMP}$ comparison groups, because the two other benchmarks (RSAM and $R/VC_{>180}$) are calculated using Waybill Sample data for the same four-year period.[10]

**Discussion and Conclusions**

Parties in a Three-Benchmark rate case may submit a comparison group from the four-year Waybill Sample data we provide them at the beginning of the case. This rule simply defines the range of data that will be available to the parties; it does not dictate how the data will be used. We are not imposing a rule that forces the parties to submit a comparison group that includes movements from each year of the four-year period, or just from the first year, or the last year, or any particular combination of years. Parties may construct their comparison groups from any combination of movements drawn from the four-year Waybill Sample data. We will continue to use the final offer selection process to select the best comparison group on a case-by-case basis.

We have three reasons for adopting this rule. First, this rule provides the parties the flexibility needed to tailor their comparison groups as they see fit. In some cases, a shipper might believe it needs to use more than one year of data to demonstrate that rates for the issue traffic were unreasonably high. Thus, a party may, for example, select its comparison group from data across all four years and argue that a group selected from all four years is the most comparable to the movements at issue. On the other hand, a party may select its comparison group from a single year's data and argue, based on that case's facts, that the best comparison group is one drawn from only that year. The Board remains the ultimate arbiter in each case of which litigant's comparison group it will use to judge the challenged rate.

Second, permitting the parties to draw a comparison group from the four-year Waybill Sample data should provide enough observations to draw a valid inference about the maximum lawful rate. One year of data may in some cases be insufficient to provide a meaningful benchmark for comparison purposes. The Board was particularly concerned in *Simplified Standards* with having sufficient movements of certain hazardous cargoes (known as toxic inhalation hazards or ''TIH'') for parties to develop appropriate comparison groups, but our concern about data sufficiency is broader than that. As USDA noted in its comments (at 3), for example, because production of some specialty crops may vary significantly from year to year, shippers of such crops must have the flexibility to draw upon data generated during multiple year periods.

The rail carriers argue that, instead of permitting the use of four years of Waybill Sample data, we should instead require the carrier to make available its most recent traffic data. Using the most recent traffic data would, according to the carriers, meet the Board's desire for both flexibility in the selection of the comparison group and enough observations to make an informed decision.

We disagree. Based on our experience in Stand-Alone Cost (SAC) cases and in processing the annual Waybill Sample data, we have already concluded that using the prepared Waybill Sample data is one of the linchpins to the simplified rate review process. The release of four years of Waybill Sample data to the parties minimizes the possibility that additional traffic data will be needed for the parties to develop their comparison groups.[11] Moreover, the costs and delays associated with the collection, preparation, production, verification, and use of the carrier's most recent traffic data run contrary to Congress's directive and the Board's objective of devising simplified procedures for use in small rate cases. Because relief in Three-Benchmark cases is limited, the costs associated with extensive discovery could significantly offset, or even eliminate, any rate reduction benefits from such cases and deter shippers from seeking relief. For example, relying only on data provided by the carrier presents the problem that, unlike the Waybill Sample data, the traffic data provided by the carriers would not include the variable cost data necessary to determine R/VC ratios.[12] Adopting the carriers' proposal would substantially increase the cost of bringing a Three Benchmark case and impede shippers' ability to seek relief for smaller disputes.

Third, making four years of data available is fully consistent with the

[6] Supplemental initial or reply comments on the October 22, 2010 notice were filed by American Chemistry Council, Fertilizer Institute, National Grain And Feed Association, and National Industrial Transportation League jointly, and by AAR, CP, and NSR/CSXT. We cite to these as ''Supp.'' or ''Suppl. Reply.''

[7] *E.g.,* AAR Supp. at 6–9; CP Initial at 4–9 and Supp. at 2–5; NSR/CSXT Initial at 7–18 and Supp. at 9–12. CP and NSR/CSXT mistakenly assumed in their initial comments that the release of one year of Waybill Sample data was ''the existing rule.'' *Seesupra* note 5.

[8] *E.g.,* AAR Initial at 4.

[9] AAR Initial at 6 n.5.

[10] Shippers Initial at 8–9.

[11] The Board noted in *Simplified Standards:* ''This Three-Benchmark approach rests on the selection of a useable comparison group. If a particular movement is so unique that there are insufficient comparable movements in the Waybill Sample, we will entertain a reasonably tailored request for comparable movements from the defendant's own traffic tapes. Such motions will be decided on a case-by-case basis, but are not encouraged, as they will expand the cost and time of pursuing relief under this simplified approach.'' Slip op. at 83.

[12] As part of the preparation of the Waybill Sample data for each calendar year, the Board calculates the variable costs for each movement in the sample using its Uniform Rail Costing System program and the carriers' R–1 annual financial reports.

basic idea behind the Three-Benchmark approach. As the Board stated in *Simplified Standards* (at 73), in the absence of any other suitable method, a comparison approach can be instructive as to the reasonable level of contribution to fixed costs (the R/VC ratio) for a particular captive movement when a second, cost-based approach is also employed to constrain rail rates. The Three-Benchmark methodology embodies this approach: it is a comparison-based methodology that applies a cost-based adjustment— the ratio of RSAM ÷ $R/VC_{>180}$ —to the comparison groups. The Three-Benchmark method begins with the assumption that, in setting rail rates for captive traffic, ''the carrier will not exceed substantially the level permitted by the SAC constraint.'' *Id.* An adjustment to the R/VC levels of captive traffic is needed, however, because the rates may be priced below the SAC constraint due to market forces. *Id.* Applying the RSAM ÷ $R/VC_{>180}$ adjustment factor to the R/VC ratios of the comparison group adjusts those ratios to those that would be needed for the carrier to achieve revenue adequacy.[13] Assuming that the comparison group has been drawn properly from other captive traffic with similar characteristics—and the final offer procedures were adopted to create incentives for both parties to submit a reasonable comparison group—we concluded that ''these adjusted R/VC ratios would fairly reflect the maximum lawful rates the carrier could charge those potentially captive movements.'' *Id.* Accordingly, the selection of the best comparison group ''will be governed by which group the Board concludes provides the best evidence as to the reasonable level of contribution to joint and common costs for the issue movement.'' *Id.* at 18.

The rail carriers argue against using four years of Waybill Sample data because, they claim, (1) The data will be too stale, (2) the $R/VC_{COMP}$ benchmark should have no relationship to the time period used to calculate the other two benchmarks, and (3) in calculating the $R/VC_{COMP}$ benchmark, there is no need to smooth out business variations in the pricing of similar traffic. The carriers also claim the proposal is flawed because rates and costs in the industry and for specific commodities change over time. These objections are best summarized by NSR and CSXT, both of which declare that ''the goal of the R/$VC_{COMP}$ is not to smooth out annual variations; it is to reflect as accurately as possible current market conditions in which the carrier establishes the challenged rate.'' NSR/CSXT Supp. at 6–7.

The carriers' arguments are not persuasive. The fundamental purpose of the Three-Benchmark approach is not to reflect a snapshot of current market conditions; it is to use the three benchmarks to decide the reasonable maximum contribution to joint and common costs for the issue movement where no cost-based approach is feasible. The $R/VC_{COMP}$ benchmark is used to approximate the maximum reasonable rate that a rail carrier could charge under the SAC constraint. The Three-Benchmark method compares the R/VC ratios (*i.e.,* percentage markups over variable cost) of particular current movements against the R/VC ratios of comparable movements selected from any mix of movements within the four years of Waybill Sample data.[14] One weakness in employing this benchmark to protect shippers from unreasonable rates is that the constraint may not always approximate the maximum reasonable rate under the SAC constraint, particularly over relatively short observational periods.[15] By giving parties the opportunity to select their comparison groups from as much or as little data as they choose from within multiple years of Waybill Sample data, the Board can have greater confidence that the adjusted R/VC ratios of the comparison group ($R/VC_{COMP}$) selected through the final offer process will approximate the maximum reasonable level permitted by the more precise SAC constraint.[16]

Moreover, we use the parties' comparison group to prescribe the maximum lawful rate not just at the moment a carrier's rates are challenged, but for a five year period. The maximum lawful rate for a movement (*i.e.,* the maximum reasonable contribution to joint and common costs expressed as an R/VC ratio) may change from year to year, as it is a function of the amount of joint and common costs that need to be recovered, as well as the level and the mix of traffic, and the revenue generated by that traffic. *See Simplified Standards* at 82. For example, a carrier with little revenue from competitive traffic in a given year will need to recover a larger share of joint and common costs from its potentially captive traffic, *id.,* while in a boom year when the carrier enjoys stronger revenues from competitive traffic, a carrier would need to recover less from its potentially captive traffic. It is therefore reasonable to permit parties broad latitude to draw information about the R/VC levels charged to comparable traffic from any or all of the most recent four years of Waybill Sample data for all three benchmarks. Again, the parties may argue that the circumstances of a particular case caution against drawing information from a four-year time period, or that a comparison group drawn from, say, only one or two years of Waybill Sample data is superior to one drawn from four years of data because of other characteristics of the selected movements,[17] or that, due to the inevitable regulatory lag, a further adjustment to all three benchmarks is needed (so-called ''other relevant factors'').[18] We reiterate that the

[13] Likewise, the RSAM ÷ $R/VC_{>180}$ adjustment would reduce R/VC ratios of the comparison group where the carrier is earning greater than adequate revenues from its captive traffic.

[14] The carriers' evidence regarding changes over time in rates and costs within the industry generally, and for specific commodities, does not support their position on the issue of data availability, because the Three-Benchmark method does not compare current rates against older rates or current costs against historical costs, but rather R/VC ratios. The carriers have provided no reason to believe that comparisons of a carrier's R/VC ratios for similar traffic over different time periods are *prima facie* misleading or otherwise invalid. Indeed, the comments submitted by the rail carriers contain virtually no discussion of R/VC ratios themselves and are devoid of any evidence that comparisons of R/VC ratios of similar traffic for different years would skew the results of the final offer process.

[15] *See Simplified Standards* at 76 (observing that R/VC ratios in the upper end of the comparison group ''might overstate a reasonable rate, as those rates might themselves be unlawfully high'').

[16] The shippers argue that we mandate that comparison groups be drawn from the same time period as the two other benchmarks. Parties are free to argue that the time period from which data may be drawn to determine the $R/VC_{COMP}$ benchmark should be consistent with the time period used to determine the $R/VC_{>180}$ and $R/VC_{COMP}$ benchmarks because the three benchmarks are interrelated. *See Simplified Standards* at 85. On the other hand, a party may believe that, for other reasons, a comparison group drawn from only one or two years of Waybill Sample data is superior to one drawn from four years of data in a given case. Allowing, but not requiring, comparison groups to be drawn from four years of Waybill Sample data is consistent with the Board's goal of making available to the parties a sufficiently robust yet easily (and equally) accessible data set from which the parties are given the maximum flexibility to draw as they see fit to shape their comparison groups.

[17] The rail carriers argue, nonetheless, that they will be prejudiced by this four-year rule because the Board has not stated that the age of the movements in a comparison group will be a factor in deciding which comparison group is most similar to the issue traffic. This argument is erroneous. The Board has stated previously that the list of comparability factors in *Simplified Standards* is not exclusive and that a rail carrier is free to limit its proposed comparison group to the most recent movements available in the Waybill Sample data and to argue that its group is more appropriate for the Board to select. *E.I. Du Pont De Nemours & Co.* v. *CSXT Transp. Inc.* (*DuPont*), NOR 42099, slip op. at 2 n.4 (STB served Jan. 15, 2008).

[18] Citing our rejection of a rail carrier's proposed adjustment for other relevant factors in *DuPont,* slip

Board remains the ultimate arbiter of which litigant's comparison group it will use to assess the challenged rate(s), and the Board will consider the extent to which a party's comparison group is most similar in the aggregate to the issue traffic on a case-by-case basis. The final offer process gives both parties the opportunity to convince the Board that its comparison group is most similar to the issue traffic.

In addition, complainants should have access to multiple years of data so that they can make year-to-year comparisons of rate changes to identify potentially unreasonable carrier pricing behavior. Although the R/VC ratios of the issue traffic might well be similar to the R/VC ratios of comparable movements in the current year, they might be dramatically higher than the R/VC ratios of comparable shipments from prior years. We see no reason why a complainant should be deprived at the outset of the case of readily available Waybill Sample data needed to make that case.[19]

Finally, NSR and CSXT argue that 49 U.S.C. 10701(d)(1) compels us to use the most current data when evaluating the reasonableness of rates. They maintain that the statute ''requires at a minimum that the comparison group movements reflect the same market conditions that exist when the railroad established the challenged rate.'' NSR/CSXT Supp. at 7. Put differently, they argue that when asked to judge the reasonableness of a rate set in 2010, we cannot perform an analysis of whether the rate was comparable to rates from 2005–2008. *Id.*

This statutory argument is unpersuasive for a number of reasons. First, the statute contains no such directive. Second, when judging the reasonableness of a particular rate, we routinely look to information beyond the year when the rate was established. For example, our SAC test does not judge the reasonableness of the challenged rate by looking only at a snapshot of the current financial circumstances. Rather, the SAC test requires a 10-year analysis that is structured to reflect the variations in the business cycle. *See Major Issues In Rail Rate Cases,* EP 657 (Sub-No. 1), slip op. at 61 (STB served Oct. 30, 1996). Some of the variables it takes into account are the annual tonnage fluctuation, change in tax laws, equity investor expectations, and inflation in the prices of the assets utilized by the industry. *Coal Trading Corp.* v. *B&O R.R.,* 6 I.C.C.2d 361, 411 (1990). Third, in their example above, the Three-Benchmark approach would not compare the rate set in 2010 against the rates from 2005–2008; it would judge the reasonableness of the challenged rate by comparing the R/VC ratio (the level of contribution to joint and common cost) against the adjusted R/VC ratios of comparable traffic from 2005–2008. Finally, in a rate case, we are not asked to determine the maximum lawful rate on the day the tariff was issued, but for a multi-year prescriptive period.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The Board will adopt the rule as set forth in this decision.

2. This decision is effective on the day of service.

3. This decision will be published in the **Federal Register**.

Decided: March 8, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2012–6551 Filed 3–16–12; 8:45 am]

**BILLING CODE 4915–01–P**

op. at 17–18 (STB served June 30, 2008), some rail carrier commenters maintain that the Board has foreclosed such adjustments. The carriers are mistaken. While the Board did not accept the carrier's adjustment factor in that case, it rejected the proposal because the adjustment was incomplete. The carriers also argue that the proposed rule's prohibition on the use of non-public information from their files—particularly evidence of changes in costs or market conditions—hampers their ability to show that a shipper's comparison group consisting of older movements is not comparable to the issue traffic and effectively precludes them from proving changed conditions as an ''other relevant factor.'' To the contrary, however, evidence outside the four years of Waybill Sample data provided under this rule may be used to attempt to demonstrate ''other relevant factors.'' *See Simplified Standards,* slip op. at 77–78.

[19] Releasing the Waybill Sample for the four years that correspond with the most recently published RSAM (as opposed to five years or three years of data) is reasonable because (1) complainants must have access to that data anyway to verify the Board's calculation of the RSAM and $R/VC_{>180}$ benchmarks; and (2) it provides the complainant the ability to use the same four-year time period to estimate all three benchmarks used in this analysis. No party has demonstrated that the release of more Waybill Sample data is appropriate.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 110211137–2141–02]**

**RIN 0648–BA87**

## Fisheries Off West Coast States; Highly Migratory Species Fisheries; Swordfish Retention Limits

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to modify retention limits for swordfish harvested in the U.S. West Coast-based deep-set tuna longline (DSLL) fishery. The DSLL fishery is managed under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The final rule implements the Pacific Fishery Management Council's (Council) recommendation to modify HMS FMP regulations governing the possession and landing limits of swordfish captured in the DSLL fishery as follows: if a vessel without an observer onboard uses any J-hooks (tuna hooks), the trip limit is 10 swordfish; if a vessel without an observer onboard uses only circle hooks, the trip limit is 25 swordfish; if the vessel carries a NMFS-approved observer during the entire fishing trip, there is no limit on swordfish retained.

**DATES:** This final rule is effective April 18, 2012.

**FOR FURTHER INFORMATION CONTACT:** Craig Heberer, Sustainable Fisheries Division, NMFS, 760–431–9440, ext. 303.

**SUPPLEMENTARY INFORMATION:**

### Electronic Access

This final rule is also accessible at (*http://swr.nmfs.noaa.gov/*). An electronic copy of the current HMS FMP and accompanying appendices are available on the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/hms/hmsfmp.html.*

The HMS FMP was developed by the Council in response to the need to coordinate state, Federal, and international management of HMS stocks. The management unit in the FMP consists of highly migratory species (tunas, billfish, and sharks) that

occur within the West Coast (California, Oregon, and Washington) Exclusive Economic Zone (EEZ) and to a limited extent on adjacent high seas waters. NMFS, on behalf of the Secretary of Commerce, partially approved the HMS FMP on February 4, 2004 (69 FR 18444). The majority of HMS FMP implementing regulations became effective on April 7, 2004. Reporting and recordkeeping provisions became effective on February 10, 2005.

Since being adopted in 2004, the HMS FMP has been amended twice. On June 7, 2007, NMFS approved Amendment 1 to the HMS FMP to incorporate recommended international measures to end overfishing of the Pacific stock of bigeye tuna, *Thunnus obesus,* in response to formal notification from NMFS that overfishing was occurring on this stock. On June 12, 2011, NMFS approved Amendment 2 to the HMS FMP (76 FR 56328) to ensure that it is consistent with revised guidelines to implement National Standard 1 of the MSA in order to more effectively prevent overfishing and rebuild overfished stocks, or stocks that may become overfished.

This final rule modifies HMS FMP longline regulations at 50 CFR 660.705 and 660.712, which prohibit U.S. vessels based on the West Coast from using longline gear to make shallow sets (SSLL), and which originally prohibited U.S. vessels using DSLL gear from landing more than 10 swordfish (*Xiphias gladius*) per trip. The 10-swordfish trip limit was intended to prevent vessels ostensibly fishing with DSLL gear targeting bigeye and yellowfin tuna, from switching to SSLL gear targeting swordfish on the same trip. The final rule increases the trip limits on swordfish in order to make the West Coast-based DSLL fishery consistent with recommendations by the Western Pacific Fishery Management Council on their Pacific Pelagics Fishery Ecosystem Plan (FEP) to similarly increase DSLL fishing retention limits for the Hawaii-based DSLL fishery.

The final rule retains the 10 swordfish limit for DSLL vessels fishing with J-hooks (tuna hooks), because those types of hooks have higher sea turtle bycatch rates, and the trip limit acts as a deterrent to engaging in fishing practices that may result in sea turtle bycatch. The final rule changes the trip limits for vessels fishing without observers but using circle hooks, because those types of hooks are known to minimize the bycatch and mortality of sea turtles. However, for trips with a NMFS-approved observer, the final rule removes the trip limits entirely, because the observer acts a sufficient deterrent to engaging in SSLL fishing, which is prohibited.

The final rule assists vessels in the DSLL fishery by reducing the unnecessary discard of swordfish (regulatory ''bycatch'' under the Magnuson Act) when a vessel employs DSLL fishing methods known to reduce the risk of incidentally catching sea turtles. It also benefits the DSLL vessels by allowing them to land a greater number of swordfish, which could result in fishermen realizing greater profits from DSLL fishing trips, especially those with NMFS-approved observer coverage. Furthermore, by not forcing fishermen to discard as many swordfish, bycatch levels will be minimized as required by National Standard 9 of the MSA.

NMFS received four public comments on the proposed rule, two in support of the action and two critical of the action. The first critical comment asserted, without providing substantive evidence, that the fisherman regulated under these rules could be earning more than five million dollars a year and therefore should not be considered a small (business) entity for purposes of analysis under the Regulatory Flexibility Act (RFA). Based on the average observed annual catches by this vessel and the market values for that catch, it is extremely unlikely that the regulated fisherman is realizing annual revenues anywhere near five million dollars. NMFS has not changed its certification or undertaken a regulatory flexibility analysis due to this comment.

The second critical comment, submitted on behalf of the Turtle Island Restoration Network and the Center for Biological Diversity, recommended that NMFS disapprove the action altogether. The recommendation was based on the commenters' perceptions of: a lack of need for the regulation; adverse effects on federally protected sea turtles, marine mammals and bycatch species; adverse impacts to Pacific swordfish populations; and providing the foundation for opening the West Coast High Seas to a surface longline fishery (i.e., shallow-set fishery for swordfish) under the guise of regulatory consistency. The rationale for the rule is explained above, and is not related to opening a SSLL fishery. NMFS has analyzed the DSLL fishery (on the high seas outside the West Coast EEZ) under the National Environmental Policy Act (NEPA) and section 7 of the Endangered Species Act. This final rule will result in no additional adverse impacts to the marine environment, including sea turtles and marine mammals, or any aspect of the human social and economic environment that was not previously analyzed. The action is not expected to increase either the fishing effort or manner of operations in the DSLL fishery (which is an open-access fishery). Furthermore, the North Pacific swordfish stock is currently healthy and not approaching an overfished or overfishing condition.

There are no changes to the rule text from those that NMFS originally proposed.

**Classification**

The Administrator of the Southwest Region, NMFS, determined that the final rule is necessary for the conservation and management of the U.S. West Coast Fisheries for Highly Migratory Species and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. A single comment was received questioning the determination that the one vessel affected by this rule is a ''small entity.'' As explained above, in the response to comments under the Supplementary Section of this final rule, the commenter did not supply any substantive evidence to support that claim, and it is extremely unlikely that the regulated fisherman is realizing annual revenues anywhere near five million dollars. As a result, a regulatory flexibility analysis was not required and none was prepared.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 14, 2012.

**Alan D. Risenhoover,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

## PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.705, revise paragraphs (s) and (mm) to read as follows:

**§ 660.705 Prohibitions.**

* * * * *

(s) If no observer is on the vessel and J-type fishing hooks are used, possess more than 10 swordfish; if no observer on the vessel and only circle-type fishing hooks are used, possess more than 25 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(9).

* * * * *

(mm) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of § 660.720(a)(3).

* * * * *

■ 3. In § 660.712, revise paragraphs (a)(10) and (a)(11) to read as follows:

**§ 660.712 Longline fishery.**

(a) * * *

(10) If no observer is on board the vessel, owners and operators of longline vessels registered for use of longline gear may land or possess no more than 10 swordfish from a fishing trip when using any J-type fishing hooks, and no more than 25 swordfish from a fishing trip when using only circle hook-type fishing hooks. If a NMFS-approved observer is on board the vessel for the duration of the fishing trip, there is no limit on the amount of swordfish retained.

(11) Owners and operators of longline vessels registered for use of longline gear are subject to the provisions at 50 CFR part 223 prohibiting shallow sets to target swordfish in waters beyond the U.S. EEZ and east of 150° W. long.

* * * * *

[FR Doc. 2012–6577 Filed 3–16–12; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 77, No. 53
Monday, March 19, 2012

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

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

### 9 CFR Parts 307 and 381

**[Docket No. FSIS—2011–0032]**

## Additional Changes to the Schedule of Operations Regulations

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to amend the meat and poultry products regulations pertaining to the schedule of operations. FSIS is proposing to amend these regulations to define the 8-hour workday as including time that inspection program personnel need to prepare the inspection station, if necessary, or retrieve and return lot tally sheets; the time necessary for FSIS inspection program personnel to sharpen knives, if necessary; and the time necessary to conduct duties scheduled by FSIS, including administrative activities. The activities are integral and indispensable to inspectors' work and are part of the continuous workday as defined by the Fair Labor Standards Act. Therefore, they are activities that need to be part of the Agency's regulatory definition for the 8-hour workday.

**DATES:** Submit comments on or before April 18, 2012.

**ADDRESSES:** FSIS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163A, Washington, DC 20250–3700

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0013. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

*Docket:* For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street, Room 8–164, Washington, DC 20250–3700 between 8 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3700, telephone: (202) 205–0495.

**SUPPLEMENTARY INFORMATION:**

### Background

The Federal Meat Inspection Act (FMIA), 21 U.S.C. 601 *et seq.,* and the Poultry Products Inspection Act (PPIA), 21 U.S.C. 451 *et seq.,* provide for mandatory Federal inspection of livestock and poultry slaughtered at official establishments and of meat and poultry products processed at official establishments, respectively. FSIS bears the cost of mandatory inspection provided during non-overtime and non-holiday hours of operation. Official establishments pay for inspection services performed on holidays or on an overtime basis.

On August 9, 2010, FSIS proposed to amend its regulations pertaining to the schedule of operations. FSIS proposed to define the 8-hour workday as including time that inspection program personnel need to spend at the workplace donning and doffing required gear, walking to their workstations after donning required gear, and walking from their work stations prior to doffing required gear.

On June 10, 2011, FSIS issued the final rule that amended the meat, poultry products, and egg products regulations to define the 8-hour workday as including time that inspection program personnel need to spend at the workplace donning and doffing required gear, time spent walking to their workstations after donning required gear, and time spent walking from their work stations prior to doffing required gear.

In connection with our development of the 2011 final rule, FSIS determined that there are three other activities that need to be included as a part of the defined workday. The first is the sharpening of knives in meat slaughter plants, the second is the completion of administrative duties (e.g., time and attendance), and the third is preparing for inspection (e.g., preparing a work station or obtaining forms). FSIS considers these activities as integral and indispensable to the principal work of inspection program personnel as defined in 29 CFR 790.8, ''Principal'' activities. Therefore, these activities need to be part of the Agency's regulatory definition for the 8-hour workday.

### Sharpening of Knives

Livestock carcass inspection includes making excisions to cattle carcasses' heads, tongues, and certain organs while they are on the slaughter line and making cuts to the head of swine carcasses while they are on the slaughter line to inspect the carcass for diseases. Currently, inspection program personnel performing on-line inspection duties in poultry establishments do not use knives.

Under this proposed rule, if a livestock slaughter establishment does not offer a knife-sharpening service to inspection program personnel, the establishment would be required to provide time for inspection program personnel that perform on-line inspection duties to sharpen his or her knife.

FSIS determined that inspection program personnel on the cattle slaughter line who work 3 days or less a week would need 15 minutes once a week to sharpen their knife, if the establishment does not sharpen it. Inspection program personnel who work on the swine slaughter line, regardless of the days worked a week, would also need 15 minutes once a week to sharpen

their knife, if the establishment does not sharpen it, because post-mortem inspection procedures for swine require less incising with the knife than post-mortem inspection procedures for cattle. However, inspection program personnel on the cattle slaughter line who work 4 or more days a week would need 15 minutes twice a week to sharpen their knife, if the establishment does not sharpen it, because of the increased number of carcasses they cut into.

FSIS is basing its estimate of 15 minutes to sharpen a knife on an Agency CD–ROM training video, ''Knife-Safety and Sharpening Skills.'' In the video it took an estimated 15 minutes to sharpen a knife. Assuming that the blade is in good condition and free of major nicks, it took 6–10 minutes to sharpen a knife and 5 minutes for preparation and breakdown. To determine the number of times a week a knife needs to be sharpened, FSIS considered a variety of factors, such the species being inspected (*i.e.,* cattle or swine) and the number of carcasses inspected and species.

FSIS has instructed its inspection program personnel that if an establishment provides a knife sharpening service for inspection program personnel, they are to use that service. Should this rule become final, and if a knife-sharpening service is not provided, livestock slaughter establishments would need to incorporate the times and frequencies discussed above for knife sharpening into the 8 hours of inspection or request that it be done in an overtime period.

**Administrative Activities**

The completion of the AD–3530–4, Time and Attendance Report, constitutes the most time consuming and regularly occurring administrative duty that inspection program personnel may have to accomplish within the 8-hour workday. At slaughter establishments, FSIS estimates inspection program personnel need 1 minute every day to complete the time and attendance report.

To determine this time estimate, FSIS evaluated the time needed to complete the actual Time and Attendance Reports for inspection program personnel performing on-line inspection duties. FSIS took into account various activities, such as the need to code leave and record overtime. Also, the Agency included the time needed for inspection program personnel to obtain the time and attendance record and to gather the data to be recorded on the time report. Based on its evaluation and the factors it considered, FSIS estimates that each day inspection program personnel need 1 minute within the scheduled 8-hour workday to allow for completion of the time and attendance report. Therefore, should this rule become final, slaughter establishments would need to provide inspection program personnel 1 minute everyday to complete the time and attendance activity. The 1 minute would need to be incorporated into the 8 hours of inspection or request that it be done in an overtime period.

**Preparation for Inspection**

It is necessary for livestock work stations to be set up to include supplies needed for post-mortem inspection—for example, stamps used to identify condemned parts. This preparation can be done by the slaughter establishments. Should this rule go into effect, and the establishment choose not to prepare the work station, FSIS will direct its supervisory personnel at livestock establishments to measure the amount of time it takes inspection program personnel to don required gear, walk to a work station, prepare the work station, return from the work station and doff required gear.

Inspection program personnel on poultry slaughter lines do not prepare the work station. However, they pick up and drop off lot tally sheets, which capture the number of birds condemned on post-mortem inspection, the conditions for which birds are condemned per lot, and the class of poultry for that lot. Should this rule go into effect, FSIS will direct its supervisory personnel in poultry slaughter establishments to measure the amount of time it takes inspection program personnel to don required gear, pick up a lot tally sheet, walk to a work station, return from the work station, drop off a lot tally sheet, and doff required gear.

**Request for Comment and General Implementation Plan**

FSIS is not aware of any duties other than those discussed above that are integral and indispensable work activities under the Fair Labor Standards Act and, therefore, should be included as part of the continuous workday. The Agency requests comment on whether there are other duties that it should consider including.

Should this rule become final, as with the provisions for donning, doffing, and the associated walk time, establishments will need to either incorporate the time for inspection program personnel performing on-line inspection duties to conduct knife sharpening, to complete the time and attendance reporting, and to prepare for inspection into their hours of operation or request overtime charges. The regulations provide that FSIS bills overtime in 15 minute increments (9 CFR 307.6 and 381.39). Therefore, in situations where establishments have requested overtime, FSIS, when possible, will instruct inspection program personnel performing on-line inspection duties to do the activities addressed in this proposed rule during any time that remains within 15 minutes of requested overtime.

**Proposed Amendment to 9 CFR 307.4(c) and 381.37(c)**

For the reasons discussed above, FSIS is proposing to amend the meat and poultry products regulations to provide that the 8 hours of inspection service provided to establishments free of charge will include activities necessary to fully carry out an inspection program, including time for inspection program personnel to prepare the work station, if necessary, or retrieve and return lot tally sheets; the time necessary for FSIS inspection program personnel to sharpen knives, if necessary; and the time necessary to conduct duties scheduled by FSIS, including administrative duties.

**Executive Order 12866 and the Regulatory Flexibility Act**

This rule was reviewed by the Office of Management and Budget under Executive Order 12866 and was determined to be non-significant.

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 non-significant under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

**Cost to the Industry**

Under this proposed rule, the most direct cost to the industry will be the overtime fee that the Agency will need to charge slaughter establishments for the time inspection program personnel spend in three groups of activities: (1) Sharpening knives, (2) completing administrative activities, and (3) preparing for inspection. As we explained in the cost analysis of the

Final Rule on Changes to the Schedule of Operations Regulations (76 FR page 33979), if meat and poultry slaughter establishments want to maintain their normal shift length of operating for 8 hours, they would incur some overtime fees.[1] Although the choice is voluntary, should this rule become final, the Agency expects that most meat and poultry slaughter establishments will choose to maintain their current shift-time, as shortening the shift-time will decrease production and revenue while idling existing capacity. However, FSIS expects the overtime fee from these three groups of activities will not be significant because (1) the establishments have options, as we will discuss later, besides paying overtime for some of these activities, and (2) the time for carrying out administrative activities and preparing for inspection (including preparing an inspection station and picking up and dropping off lot tally sheets) is small (one minute or two per day) tand will probably not push the overtime over the 15 minutes threshold to incur more over-time charge than are currently assessed for donning and doffing activities.

Similar to donning and doffing, the actual time FSIS inspection program personnel will take to perform these activities will vary in each meat and poultry slaughter establishment depending on plant-specific variables. FSIS has developed preliminary estimates on the amount of time it takes for inspection program personnel to perform these activities and is requesting from all interested parties input on FSIS' estimates.

Knife-sharpening:

a. Two 15-minute periods per week for inspection program personnel who perform on-line inspection duties in beef slaughter operations for 4 or more days per week.

b. One 15 minute period per week for inspection program personnel on the beef slaughter line for 3 days or less per week or in a swine slaughter establishment.

- One minute per day to complete administrative activities.
- Two minutes or less for preparing for inspection.

Agency personnel data[2] show that there are 3,053 inspection program personnel performing on-line inspection duties in the poultry and meat slaughter establishments—2,037 in poultry, 1,000 in meat, and 16 in establishments that slaughter both meat and poultry. Data[3] from a recent Agency survey indicate that among the meat slaughtering inspectors, 56 percent work in beef establishments that operate 4 or 5 days per week, 4 percent work in beef establishments that operate less than 4 days per week, 36 percent work in swine establishments, and 4 percent work in lamb, sheep, and goat establishments. Because lamb, sheep, and goat establishments are small or very small establishments, inspection program personnel would be able to complete the activities addressed in this proposed rule within the 8-hour day, and, therefore, there are no related cost calculations for these establishments in this proposed rule. Applying the percentages to the total of 1,016 meat slaughter inspectors,[4] 573 inspection program personnel are in beef establishments that operate 4 or 5 days per week, and 409 are in either beef establishments that operate less than 4 days per week or in swine establishments. The overtime fee that the Agency charges for each 15 minute interval is $17.08 for FY 2012. Multiplying this number by the Agency-estimated knife-sharpening time, we estimated the annual cost for knife sharpening time to be about $1,776.3 ($17.08 per quarter-hour × 2 knife-sharpening period per week × 52 weeks per year) per inspection program personnel in beef slaughter establishments that operate more for 4 days or more a week, and $888.2 ($17.08 per quarter-hour × 52 weeks per year) per inspection program personnel in beef slaughter establishments that operate 3 days or less or in swine establishments (FY 2012 rate). If the industry had to pay all the meat slaughter inspectors to sharpen their knives, the total cost to the industry would be about $1.38 million ($1776.3 × 573) + ($888.2 × 409). However, the actual impact would be much less because the industry can offer knife-sharpening services to Agency inspection program personnel instead of paying overtime for it.

If an establishment provides a knife-sharpening service, FSIS will instruct inspection program personnel to use that service. A preliminary Agency query[5] found that the majority of the meat-slaughter establishments are offering knife sharpening to their employees, and about 91% of those also offer the service to Agency inspection program personnel as well. We expect that many other establishments will start offering the service to avoid paying overtime charges should this rule become effective.

As for the other two groups of activities, the time they take is minimal. According to the Agency's estimates mentioned above, these activities combined will be at most 3 minutes per day. In addition, FSIS will permit the establishment to take on the responsibility of preparing the inspection station for inspection program personnel in livestock slaughter establishments. Given that the Agency charges overtime in 15 minute increments, and that it believes the donning, doffing, and walking time to be usually less than 15 minutes, time for these additional activities can be absorbed in the overtime period for donning, doffing, and walking time in most cases, thus not causing any additional overtime. In the unlikely, worst-case scenario where these activities push the daily overtime beyond the first 15 minute interval, the establishments would pay each inspection program personnel another $4,441 ($17.08 per inspector × 5 days per week × 52 weeks per year) annually. However, the Agency believes this scenario would apply to only a very small percentage of the inspection program personnel.

Comparing the cost to the annual revenue of the meat slaughtering industry alone, which is about $67.2 billion,[6] the costs of this rule to the industry would not be significant.

**Cost to the Consumer**

The industry is likely to pass the increased costs on to consumers because of the inelastic nature of the consumer demand for meat and poultry products. However, given that the total volume of meat and poultry slaughtered under Federal inspection in 2010 was about 92 billion pounds,[7] the increased cost per pound due to the overtime fee will be less than $0.0001 on average.

**Benefits of the Rule**

This proposed rule will include integral and indispensible work activities (as defined by the Fair Labor

[1] This regulatory change should not impact the schedule of operations for meat and poultry processing establishments and egg product plants because those establishments can begin operations without FSIS inspection program personnel being at an on-line inspection work station.

[2] As of November 2011.

[3] Survey date is March 2011.

[4] We count the inspection program personnel in combined meat and poultry as meat inspectors so not to underestimate the cost, as poultry slaughter inspectors do not currently have to sharpen knives.

[5] OFO conducted the query in November 2011.

[6] Summary of the *Animal (except Poultry) Slaughtering Industry in the U.S. and its International Trade [2010 edition,]* Supplier Relations US, LLC. *http://www.htrends.com/report-2700858-Animal_except_Poultry_Slaughtering_Industry_in_the_U_S_and_its_International_Trade_Edition.html,* as of 11/16/2011.

[7] *Livestock, Dairy, & Poultry Outlook*/LDP–M–209/November 16, 2011; Economic Research Service, USDA.

Standards Act) into the defined inspector ''workday.'' Therefore, if finalized, this proposed rule will help ensure compliance with the law and the improved use of Agency resources.

**Regulatory Flexibility Analysis**

The FSIS Administrator has made a preliminary determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). There are 263 small and 566 very small meat and poultry slaughter establishments (by Small Business Administration standard). In small and very small establishments, inspection program personnel typically have adequate time during their tour of duty to sharpen their knives as well as conduct the other activities under this proposed rule, because they do not have to be on-line for 8 hours. Therefore, the impact will not be significant.

**Paperwork Reduction Act**

This proposed rule has been reviewed under the Paperwork Reduction Act and imposes no new paperwork or recordkeeping requirements.

**Executive Order 13175**

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

**USDA Nondiscrimination Statement**

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, or audiotape) should contact USDA's Target Center at (202) 720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

**Additional Public Notification**

FSIS will announce this notice online through the FSIS Web page located at: *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

**List of Subjects**

*9 CFR Part 307*

Government employees, Meat inspection.

*9 CFR Part 381*

Government employees, Poultry products inspection.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR Chapter III as follows:

## PART 307—FACILITIES FOR INSPECTION

1. The authority citation for part 307 continues to read as follows:

**Authority:** 7 U.S.C. 394; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. In § 307.4(c), remove the second sentence and add two sentences in its place to read as follows:

**§ 307.4 Schedule of operations.**

* * * * *

(c) * * * The basic workweek shall consist of 5 consecutive 8- hour days within the administrative workweek Sunday through Saturday, except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday. The 8-hour day excludes the lunch period, but shall include activities deemed necessary by the Agency to fully carry out an inspection program, including the time for FSIS inspection program personnel to put on required gear and to walk to a work station; to prepare the work station; to return from a work station and remove required gear; to sharpen knives, if necessary; and to conduct duties scheduled by FSIS, including administrative duties. * * *

* * * * *

## PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

**Authority:** 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

4. In § 381.37(c), remove the second sentence and add two sentences in its place to read as follows:

**§ 381.37 Schedule of operations.**

* * * * *

(c) * * * The basic workweek shall consist of 5 consecutive 8- hour days within the administrative workweek Sunday through Saturday, except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday. The 8-hour day excludes the lunch period, but shall include activities deemed necessary by the Agency to fully carry out an inspection program, including the time for FSIS inspection program personnel to put on required gear, pick up required forms and walk to a work station; and the time for FSIS inspection program personnel to return from a work station, drop off required forms, and remove required gear; and to conduct duties scheduled by FSIS, including administrative duties. * * *

* * * * *

Done at Washington, DC, on: March 9, 2012.

**Alfred Almanza,**

*Administrator.*

[FR Doc. 2012–6372 Filed 3–16–12; 8:45 am]

BILLING CODE 3410–DM–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0279; Directorate Identifier 2012–CE–007–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Alpha Aviation Concept Limited (Type Certificate Previously Held by Alpha Aviation Design Limited) Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Alpha Aviation Concept Limited Model R2160 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as oil lines fitted to affected aircraft are not fire resistant. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by May 3, 2012.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Alpha Aviation Concept Limited, Ingram Road, Hamilton Airport, RD 2, Hamilton 2021, New Zealand; telephone: 011 64 7 843 7070; fax: 011 64 7843 8040; email: *customer.support@alphaaviation.co.nz;* Internet: *http://www.alphaaviation.co.nz.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0279; Directorate Identifier 2012–CE–007–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/R2000/40, dated February 23, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It has been determined that the oil lines fitted to affected aircraft are not fire resistant and not compliant with the requirements in FAR 23.1183. To correct this unsafe condition the Civil Aviation Authority of New Zealand issued DCA/R2000/34 requiring the replacement of oil lines with fire resistant lines. Since the issue of that AD it has been determined that the oil transmitter hoses are also not compliant with FAR 23.1183. DCA/R2000/40 retains the requirements in superseded DCA/R2000/34. The AD requirement expanded to include the replacement of the oil pressure transducer hoses.

### Relevant Service Information

Alpha Aviation has issued Service Bulletin AA–SB–79–001, Revision 0, dated February 2012; and Apex Aircraft has issued Service Bulletin No. 020310, dated June 3, 2002. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

### FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

### Costs of Compliance

We estimate that this proposed AD will affect 10 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $510 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $8,500, or $850 per product.

### Authority for This Rulemaking

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

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

products identified in this rulemaking action.

**Regulatory Findings**

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new AD:

**Alpha Aviation Concept Limited (Type Certificate previously held by Alpha Aviation Design Limited):** Docket No. FAA–2012–0279; Directorate Identifier 2012–CE–007–AD.

**(a) Comments Due Date**

We must receive comments by May 3, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Alpha Aviation Concept Limited Model R2160 airplanes, serial numbers 001 through 378, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 79: Engine Oil.

**(e) Reason**

This AD was prompted by a determination that the oil lines and the oil pressure transducer hose fitted to affected aircraft are not fire resistant. We are issuing this AD to detect and replace non-fire resistant oil lines, which, if not corrected, could lead to an inflight fire.

**(f) Actions and Compliance**

Unless already done, do the following actions:

(1) Within 50 hours time-in-service (TIS) after the effective date of this AD, replace the oil hose lines following Apex Aircraft Service Bulletin No. 020310, dated June 3, 2002, and replace the oil pressure transducer hose and associated hardware following Alpha Aviation Service Bulletin AA–SB–79–001, Revision 0, dated February 2012.

(2) As of the effective date of this AD, do not install any oil hose lines with part number 41–23–56–000, 53–11–10–000, 53–20–13–000, 53–20–14–000, 53–34–10–010, 53–18–02–030, 53–21–14–000, or 53–22–01–000 on the affected aircraft.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(h) Related Information**

Refer to MCAI Civil Aviation Authority of New Zealand AD DCA/R2000/40, dated February 23, 2012; Apex Aircraft Service Bulletin No. 020310, dated June 3, 2002; and Alpha Aviation Service Bulletin AA–SB–79–001, Revision 0, dated February 2012, for related information. For service information related to this AD, contact Alpha Aviation Concept Limited, Ingram Road, Hamilton Airport, RD 2, Hamilton 2021, New Zealand; telephone: 011 64 7 843 7070; fax: 011 64 7843 8040; email: *customer.support@alphaaviation.co.nz;* Internet: *http://www.alphaaviation.co.nz.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on March 12, 2012.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–6440 Filed 3–16–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

**[Docket No. USCG–2012–0066]**

**RIN 1625–AA08**

## Special Local Regulations; OPSAIL 2012 Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish temporary special local regulations on the navigable waters of Niantic Bay, Long Island Sound, the Thames River and New London Harbor, New London, Connecticut for OPSAIL 2012 Connecticut (CT) activities. This action is necessary to provide for the safety of life on navigable waters during OPSAIL 2012 CT. This action would restrict vessel traffic in portions of Niantic Bay, Long Island Sound, the Thames River, and New London Harbor unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS).

**DATES:** Comments and related material must be received by the Coast Guard on or before May 18, 2012.

Requests for public meetings must be received by the Coast Guard on or before April 9, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0066 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 Petty Officer Joseph Graun, Prevention Department, U.S. Coast Guard Sector Long Island Sound, (203) 468–4544, *Joseph.L.Graun@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–2012–0066, 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,* type the docket number (USCG–2012–0066) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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,* type the docket number (USCG–2012–0066) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. 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.

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.

## 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 April 9, 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 this rule is 33 U.S.C. 1233, which authorizes the Coast Guard to define Special Local Regulations.

This temporary special local regulation is necessary to ensure the safety of vessels and spectators from hazards associated with OPSAIL 2012 CT.

## Discussion of Proposed Rule

From Friday July 6 through Saturday July 7, 2012 Operation Sail, Inc. is sponsoring the ''Parade of Sail'' a tall ship marine parade into New London Harbor. Tall ships and other participating vessels will be staged in Niantic Bay on July 6, 2012. On July 7, 2012, the tall ships and participating vessels will commence the ''Parade of Sail'' transiting from Niantic Bay to New London Harbor via Long Island Sound and the Thames River Federal Channel. The Coast Guard expects a minimum of 5,000 spectator craft for this event. Once in New London Harbor, the vessels will be moored or anchored and available for public viewing until July 8, 2012.

The COTP SLIS has determined the combination of increased numbers of recreation vessels, a marine parade and congested waterways has the potential to result in serious injuries or fatalities. This special local regulation temporarily establishes regulated areas to restrict vessel movement around the location of the marine parade to reduce the risk associated with congested waterways. For these reasons The Coast Guard proposes five temporary regulated areas on Niantic Bay, Long Island Sound, the Thames River and New London Harbor from July 6, 2012 through July 7, 2012. Exact coordinates for each area can be found in the regulation text.

Area 1; All navigable waters of Niantic Bay extending south into Long

Island Sound. This proposed area would be used as a staging area for vessels participating in the ''Parade of Sail''. All vessels would be authorized to transit Area 1 at no wake speed or at speeds not to exceed 6 knots, whichever is less to maintain steerage way. In addition vessels transiting must not maneuver within 100 yards of a tall ship or other vessel participating in OPSAIL 2012 CT. This regulated area would be enforced from 6 a.m. July 6, 2012 until 5 p.m. July 7, 2012.

Area 2; All navigable waters of the Thames River and Long Island Sound from the Thames River Rail Road Bridge to the mouth of the river then south west to Bartlett Reef. This area would be for the exclusive use of vessels participating in the ''Parade of Sail'' and would be enforced from 10 a.m. until 5 p.m. on July 7, 2012.

Area 3; All navigable waters at the mouth of the Thames River west of the federal navigation channel. This area would be used as a spectator area limited to vessels exceeding 50 feet in length, carrying passengers for the viewing of the ''Parade of Sail''. Area 3 would be enforced from 7:30 a.m. until 5 p.m. on July 7, 2012.

Area 4; All navigable waters at the mouth of the Thames River east of the federal navigation channel. This area would be used as a spectator area limited to vessels exceeding 50 feet in length, carrying passengers for the viewing of the ''Parade of Sail''. Area 4 would be enforced from 7:30 a.m. until 5 p.m. on July 7, 2012.

Area 5; All navigable waters of the Thames River west of the federal navigation channel between Fort Trumbull and the Thames River Rail Road Bridge. This area will be used as a turning and mooring area for vessels participating in the ''Parade of Sail'' and would be enforced from 10 a.m. until 5 p.m. on July 7, 2012.

The geographic locations of regulated areas, and specific requirements of this rule are contained in the regulatory text.

Notice of this special local regulation, would be provided prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of the event in local newspapers, pamphlets, Internet sites, television and radio broadcasts.

**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.

**Executive Order 12866 and Executive Order 13563**

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, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation prevents traffic from transiting a portion of Long Island Sound, the Thames River and New London Harbor during OPSAIL 2012 CT, the effect of this regulation will not be significant for the following reasons: The limited duration that the regulated areas will be in effect, mariners would be able to transit around some areas, persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the COTP SLIS or designated representative. The extensive advance notifications that will be made to the maritime community through the Local Notice to Mariners, marine information broadcasts and New London area media; Mariners will be able to adjust their plans accordingly based on the extensive advance information. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of the event in local newspapers, Internet sites, pamphlets, television and radio broadcasts.

These regulated areas have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

**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 rule will not have a significant economic impact on a substantial number of small entities. This temporary rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit through Niantic Bay, portions of Long Island Sound, the Thames River and New London Harbor during various times from July 6–7, 2012. Although these regulations apply to a substantial portion of Niantic Bay and New London Harbor, designated areas for viewing the ''Parade of Sail'' have been established to allow for maximum use of the waterways by commercial tour boats that usually operate in the affected areas. Vessels, including commercial traffic, will be able to transit around some designated areas, persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the COTP SLIS or designated representative. Before the effective period, the Coast Guard will make notifications to the public through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of the event in local newspapers, Internet sites pamphlets, television and radio broadcasts.

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 the person listed under **FOR FURTHER INFORMATION CONTACT**. 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 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. We have analyzed this proposed rule under that Order and determined that this rule 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**. It appears that this proposed rule will qualify for Coast Guard categorical exclusion (34)(h), as described in figure 2–1 of the Instruction. This proposed rule establishes temporary special local regulations. 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 100**

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

2. Add § 100.T01–0066 to read as follows:

**§ 100.T01–0066 Special Local Regulations; OPSAIL 2012 Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, Connecticut.**

(a) *Regulated Areas.*

(1) *Area 1:* All navigable waters of Niantic Bay and Long Island Sound within the following boundaries: Beginning at position 41°18′53″ N, 072°11′48″ W then to 41°18′53″ N, 072°10′38″ W then to 41°16′40″ N, 072°10′38″ W then to 41°16′40″ N, 072°11′48″ W then to point of origin 41°18′53″ N, 072°11′48″ W (NAD 83).

(2) *Area 2:* All navigable waters of the Thames River south of the railroad bridge and Long Island Sound within the following boundaries: Beginning on the east side of the federal channel at the Thames River Rail Road Bridge in the Port of New London 41°21′46″ N, 072°05′14″ W then southward along the east side of the Federal Channel to 41°17′38″ N, 072°04′40″ W (New London Harbor Channel Lighted Buoy ''2'' (LLNR 21790)) then south west to 41°15′38″ N, 072°08′22″ W (Bartlett Reef Lighted Bell Buoy ''4'' (LLNR 21065)) then north to 41°16′28″ N, 072°07′54″ W (Bartlett Reef Lighted Buoy ''1'' (LLNR 21065)) then east to 41°17′07″ N, 072°06′09″ W then continuing east to 41°18′04″ N, 072°04′50″ W which meets the west side of the federal channel, then north along the west side of the federal channel to 41°21′46″ N, 072°05′17″ W (Thames River Railroad Bridge in the Port of New London), then east to the point of origin. (NAD 83).

(3) *Area 3:* All navigable water of the Thames River within the following boundaries. Beginning at 41°18′21″ N, 072°05′36″ W then to 41°18′21″ N, 072°05′1.5″ W then to 41°18′57″ N, 072°05′6″ W then to point of origin. (NAD 83).

(4) *Area 4:* All waters of the Thames River within the following boundaries. Beginning at 41°19′03″ N, 072°04′48″ W then to 41°19′04″ N, 072°04′33″ W then

to 41°18′42″ N, 072°04′30″ W then to 41°18′40″ N,072°04′45″ W then to point of origin. (NAD 83).

(5) *Area 5:* All waters of the Thames River and New London Harbor within the following boundaries. Beginning at a point located on the west shoreline of the Thames River 25 yards below the Thames River Railroad Bridge, 41°21′46″ N, 072°05′23″ W then east to 41°21′46″ N, 072°05′17″ W then south along the western limit of the federal navigation channel to 41°20′37″ N, 072°05′8.7″ W then west to 41°20′37″ N, 072°05′31″ W then following the shoreline north to the point of origin. (NAD 83).

(b) *Special local regulations.*

(1) In accordance with the general regulations in section 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS), or designated representative.

(2) All persons and vessels are authorized by the COTP SLIS or designated representative to enter areas of this special local regulation in accordance with the following restrictions:

(i) Area 1; all vessels may transit at a slow no wake speed or a speed not to exceed 6 knots, whichever is less to maintain steerage way. Vessels transiting must not maneuver within 100 yards of a tall ship or an OPSAIL 2012 CT participating vessel.

(ii) Areas 3 & 4; access is limited to vessels greater than 50 feet in length.

(iii) Areas 2 & 5; access is limited to vessels participating in the ''Parade of Sail''.

(3) All persons and vessels shall comply with the instructions of the COTP SLIS or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means the operator of a vessel shall proceed as directed.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must contact the COTP SLIS by telephone at (203)–468–4401, or 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 COTP SLIS or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP SLIS or designated representative.

(5) The Coast Guard will provide notice of the regulated areas, prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. Notice will also be provided by on-scene designated representatives.

(c) *Enforcement Period:* This section will be enforced during the following times:

(1) Area 1, from 6 a.m. July 6, until 5 p.m. on July 7, 2012.

(2) Areas 3 and 4, from 7:30 a.m. until 5 p.m. on July 7, 2012.

(3) Areas 2 and 5, from 10 a.m. until 5 p.m. on July 7, 2012.

Dated: March 6, 2012.

**J.M. Vojvodich,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2012–6493 Filed 3–16–12; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2011–0866; FRL–9649–3]**

## Approval and Promulgation of Air Quality Implementation Plans; Maryland; Preconstruction Requirements-Prevention of Significant Deterioration and Nonattainment New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve several revisions to the Maryland State Implementation Plan (SIP) submitted by the Maryland Department of the Environment (MDE). These revisions pertain to preconstruction requirements under the Prevention of Significant Deterioration (PSD) and non-attainment New Source Review (NSR) programs. The proposed SIP revisions will satisfy the following required SIP elements: NSR Reform, $NO_X$ as a precursor to ozone, $PM_{2.5,}$ and Greenhouse Gases (GHGs). Additionally, EPA is proposing, as a separate action, to approve Maryland's submittals for purposes of meeting the infrastructure requirements of the Clean Air Act (CAA) which relate to Maryland's PSD permitting program and are necessary to implement, maintain, and enforce the 1997 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS) and the 2006 $PM_{2.5}$ NAAQS. This action is being taken under the CAA.

**DATES:** Written comments must be received on or before April 18, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0866 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: cox.kathleen@epa.gov*

C. *Mail:* EPA–R03–OAR–2011–0866, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2011–0866. 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 information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On the dates described in detail below, MDE submitted revisions to its SIP for the PSD and nonattainment NSR programs.

## I. Background

Today's action proposes the simultaneous approval of three separate SIP revision requests submitted by MDE, as described below. Approval of these actions will have several significant impacts. It will incorporate for the first time, EPA's 2002 ''NSR Reform'' provisions into Maryland's non-attainment NSR and PSD programs. It will correct deficiencies identified by EPA in the March 27, 2008 **Federal Register** notice entitled, ''Completeness Findings for Section 110(a) State Implementation Plans for the 8 hour Ozone National Ambient Air Quality Standards (1997 Ozone NAAQS)'', (73 FR 16205), by regulating $NO_X$ as a precursor to ozone. It will ensure that GHGs in Maryland are regulated in a manner consistent with federal regulations. Additionally, these proposed SIP Revisions, along with previously approved SIP revisions relating to Maryland's federally enforceable PSD program, support a finding that Maryland has met its statutory obligations pursuant to CAA section 110(a)(2) which relate to CAA Title I, Part C requirements, including, but not limited to, relevant portions of sections 110(a)(2)(C), (D)(i)(II) and (J).

*A. SIP Revision #07–13*

On October 24, 2007 MDE submitted a SIP revision request to EPA which included amendments to Regulations .01–.03, repeal of existing Regulations .04 and .05, and the adoption of new Regulations .04—.09 under COMAR 26.11.17, Nonattainment Provisions for Major New Sources and Major Modifications. This SIP submittal revises the previously-approved versions of these rules as approved into the Maryland SIP on February 12, 2001 for COMAR 26.11.17 Regulations .02, .04, and .05 (66 FR 9766) and September 20, 2004 for COMAR 26.11.17 Regulations .01 and .03 (69 FR 56170). These amendments were adopted by Maryland on September 18, 2007 and became effective on October 22, 2007. The State adopted these regulations in order to meet the relevant plan requirements of Title 40 of the Code of Federal Regulations (CFR) § 51.165 and the CAA. The MDE is now seeking approval of these amendments.

*B. SIP Revision #09–03*

On July 31, 2009, MDE submitted a SIP revision request to EPA that consisted of the incorporation by reference of the Federal PSD requirements at 40 CFR 52.21 as codified in the July 1, 2008 edition of the CFR. The SIP revision request included amendments to the MDE Regulation .01 under COMAR 26.11.01 (General Administrative Provisions) and Regulation .14 under COMAR 26.11.06 (General Emission Standards, Prohibitions, and Restrictions). On June 23, 2011, MDE submitted a letter, retracting the part of submission #09–03 which updated the incorporation by reference date. Since originally submitting #09–03, Maryland has adopted the federal regulations as they appear in the July 1, 2009 version of the CFR (See State Submission #11–02, below). Today's action proposes approval of only that part of the submission which clarifies the definitions of ''Administrator'' and ''reviewing authority''.

This SIP submittal revises the previously-approved versions of these rules as approved into the Maryland SIP on May 28, 2002 (67 FR 36810). These amendments were adopted by Maryland on June 11, 2009 and became effective on July 16, 2009. The State adopted these regulations in order to meet the relevant plan requirements of 40 CFR 51.166 and the CAA. The MDE is now seeking approval of these amendments.

*C. SIP Revision #11–02*

On June 23, 2011, MDE submitted a SIP revision request to EPA that consisted of the incorporation by reference of the federal PSD requirements at 40 CFR 52.21 as codified in the July 1, 2009 edition of the CFR, as well as the incorporation of the revisions to 40 CFR 52.21 promulgated on May 13, 2010 in the Greenhouse Gas Tailoring Rule (75 FR 31514). The SIP revision request included amendments to the MDE Regulation .01 under COMAR 26.11.01 (General Administrative Provisions), Regulations .01 and .12 under COMMAR 26.11.02 (Permits, Approvals, and Registration), and Regulation .14 under COMAR 26.11.06 (General Emission Standards, Prohibitions, and Restrictions).

This SIP submittal revises the previously-approved versions of these rules, approved as follows: COMAR 26.11.01.01 and COMAR 26.11.06.14 were adopted into the Maryland SIP on May 28, 2002 (67 FR 36810). COMAR 26.11.02.01 and .12 were adopted into the Maryland SIP on February 27, 2003 (68 FR 9012). These amendments were adopted by Maryland on April 14, 2011 and became effective on May 16, 2009. The State adopted these regulations in order to meet the relevant plan requirements of 40 CFR 51.166 and the CAA. The MDE is now seeking approval of these amendments.

## II. Analysis

*A. NSR Reform*

1. History

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 CFR parts 51 and 52, regarding the CAA's PSD and Nonattainment NSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on the reconsideration of the December 31, 2002, final rule changes. The December 31, 2002, and the November 7, 2003, final actions are collectively referred to as ''NSR Reform.'' The purpose of this action is to propose to approve the SIP submittals from the State of Maryland that include State rule changes made as a result of EPA's 2002 NSR Reform Rules.

The 2002 NSR Reform Rules are part of EPA's implementation of parts C and D of title I of the CAA. Part C of title I of the CAA is the PSD program, which applies in areas that meet the NAAQS (''attainment'' areas), as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS (''unclassifiable'' areas). Part D of title I of the CAA is the nonattainment NSR program, which applies in areas that are not in attainment of the NAAQS (''nonattainment'' areas). Collectively, the PSD and nonattainment NSR programs are referred to as the ''New Source Review'' or NSR programs. EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and part 51, appendix S.

The CAA's NSR programs are preconstruction review and permitting programs applicable to new and

modified stationary sources of air pollutants regulated under the CAA. The NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the CAA requires EPA to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit to EPA for approval a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision.

The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, the 2002 Rules: (1) Provided a new method for determining baseline actual emissions; (2) adopted an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allowed major stationary sources to comply with a Plantwide Applicability Limit (PAL) to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provided a new applicability provision for emissions units that are designated clean units; and (5) excluded pollution control projects (PCPs) from the definition of ''physical change or change in the method of operation.'' On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the 2002 NSR Reform Rules, which added a definition for ''replacement unit'' and clarified an issue regarding PALs. For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002), and *http://www.epa.gov/nsr.*

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), industry, state, and environmental petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 52676, August 7, 1980). On June 24, 2005, the United States Court of Appeals for the District of Columbia (DC Circuit Court) issued a decision on the challenges to the 2002 NSR Reform Rules. *New York* v. *United States,* 413 F.3d 3 (*New York I*). In summary, the DC Circuit Court vacated portions of the rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping and the term ''reasonable possibility'' found in 40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6), and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to remove from federal law all provisions pertaining to clean units and the PCP exemption that were vacated by the DC Circuit Court.

With regard to the remanded portions of the 2002 NSR Reform Rules related to recordkeeping, on December 21, 2007, EPA took final action to establish that a ''reasonable possibility'' applies where source emissions equal or exceed 50 percent of the CAA NSR significance levels for any pollutant (72 FR 72607). The ''reasonable possibility'' provision identifies for sources and reviewing authorities the circumstances under which a major stationary source undergoing a modification that does not trigger major NSR must keep records.

Finally, on January 19, 2010, EPA denied a petition from the Natural Resources Defense Council (NRDC) and Sierra Club requesting EPA to reconsider and stay the Wisconsin Department of Natural Resources SIP revision that incorporated EPA's New Source Review Reforms of 2002. Petitioners submitted comments arguing that these NSR Reform provisions were ''backsliding'', and thus prohibited under CAA sections 110(l) and 193. EPA approved the Wisconsin SIP revisions and addressed Petitioners' arguments about backsliding by (1) noting that the provisions had been upheld by the *New York I* court, (2) that the general analysis that EPA had done to support the 2002 rule supported NSR Reform in Wisconsin, and (3) Petitioners had not provided any information or arguments demonstrating that the general analysis did not apply in Wisconsin, and that information in the record countered Petitioners' specific arguments that the revisions would be backsliding. Additionally, in response to comments, EPA performed an analysis specific to Wisconsin to examine the impacts of applying reform in that State. Our findings were consistent with those of the supplementary environmental analysis (SEA) for the 2002 Reform Rule (neutral).

*NRDC* v. *Jackson:* On June 16, 2011, the U.S. Court of Appeals for the Seventh Circuit (Seventh Circuit) denied the petitions for review filed by NRDC and Sierra Club challenging EPA's approval of the 2002 NSR Reform provisions into the Wisconsin SIP. The primary issue addressed in the opinion was whether EPA's approval of Wisconsin's NSR SIP was backsliding prohibited by CAA sections 110(l) and 193. The Court held that EPA's decision was not contrary to these provisions. First, the Court found that Petitioners' arguments were a repeat of the arguments that they had made and lost in *New York I.* Second, the Court held that the general analysis that supported the NSR Reform provisions when they were challenged after promulgation ''supply substantial evidence for the EPA's decision [with respect to the Wisconsin SIP] and show that it is neither arbitrary nor capricious.'' But, the Court did note that some states have implemented the NSR Reform provisions and that the experience in those states might support or refute EPA's conclusions and that ''[a]t some point, preferring predictions over facts is no longer rational.''

2. Analysis

The 2002 NSR Reform Rules required that state agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006 (consistent with changes to 40 CFR 51.166(a)(6)(i), state agencies are now required to adopt and submit SIP revisions within three years after new amendments are published in the **Federal Register**). State agencies may meet the requirements of 40 CFR part 51 and the 2002 NSR Reform Rules with different but equivalent regulations. For the purposes of PSD, Maryland has incorporated by reference 40 CFR 52.21. For non-attainment NSR, the State has adopted regulations that in most respects track the federal rules. The proposed SIP revisions include only those provisions which were upheld by the DC Circuit in 2005, and reaffirmed in the Seventh Circuit's denial of the petition to reconsider EPA's approval of NSR Reform into Wisconsin's SIP (*NRDC* v. *Jackson*).

With respect to Maryland's nonattainment NSR rules, a line-by-line comparison indicates that they vary from the federal 2002 NSR Reform rules in insignificant ways. For instance, the State's definition of ''baseline actual emissions'' for sources other than electric steam generating facilities has a five-year presumptive ''look-back''

period, but allows a facility to request up to a 10 year look-back period if it is more representative of actual source operations. In addition, PALs are limited to a five year effective date, rather than ten years as allowed in the federal rules. As noted above, states may have different but equivalent rules and in this regard, it is clear that Maryland's nonattainment NSR rules contain the basic elements for implementing NSR reform.

Section 110(l) of the CAA prohibits the approval of a SIP revision which would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. EPA has determined that approval of the proposed revisions to COMAR 26.11.17 and the incorporation of 40 CFR 52.21 will not violate section 110(l). The inherent checks and balances afforded by the CAA have been maintained, including the independent obligation for attainment of the NAAQS. Nevertheless, the Seventh Circuit, in upholding EPA's approval of the Wisconsin NSR SIP rules, cautioned that predictions made when these rules were promulgated should no longer be relied upon to demonstrate that NSR Reform is not a relaxation of the SIP. In fact, the proposed regulations have been in effect in Maryland since 2007, and several states, including Georgia, New York, and North Carolina have had the NSR Reform regulations approved into their SIPs with no known link between reform and a decrease in air quality or an interference with reasonable further progress. This is not unexpected given the limited universe of affected sources. NSR Reform only affects permitting of modifications to existing sources, and more specifically, modifications to existing emissions units. Any growth occurring from new, greenfield sites would be controlled and permitted the same both pre- and post-reform. Therefore, any concerns about NSR Reform would be related to unregulated growth from existing major sources. In the specific case of Maryland, the State maintains a robust minor NSR program that specifically regulates minor changes to major stationary sources. So while a facility may escape the requirements of major NSR, they do not escape the requirement to obtain a pre-construction permit that includes the requirement to monitor emissions after a change and may also include an air quality impact analysis. Finally, Maryland's demonstration of reasonable further progress for nonattainment areas does not rely on this NSR rule, but on other control requirements such as Reasonably Available Control Technology (RACT).

As noted above, EPA took final action in December of 2007 to promulgate the ''reasonable possibility'' provisions which had been remanded by the DC Circuit in 2005 in *New York I.* These are recordkeeping and reporting requirements for major stationary sources undergoing minor modifications. These requirements are included in the PSD regulations that Maryland has incorporated by reference. However, because Maryland's proposed non-attainment regulations were effective and submitted to EPA in October of 2007, the submittal does not include the ''reasonable possibility'' requirements promulgated on December 21, 2007 (72 FR 72607). While these provisions are a required minimum program element, we note that in the preamble to the final rule, we acknowledge that ''State and local authorities may adopt or maintain NSR program elements that have the effect of making their regulations more stringent than these rules.'' (72 FR 72614). Maryland maintains a robust minor NSR program, with recording keeping and reporting requirements that are more stringent than the ''reasonable possibility'' requirements. As further discussed in the preamble, ''Minor NSR programs by definition apply to emissions increases less than the major NSR significant level, and only activities that a State qualifies as 'insignificant activities' under the SIP-approved program may be excluded from review. Thus, reviewing authorities have an opportunity to review virtually all projects causing an emissions increase before construction begins. Moreover, our regulations (40 CFR 51.161) provide for public review of information submitted by owners/operators for purposes of minor NSR review. Thus, information provided for purposes of minor NSR programs is also of value in determining applicability of major NSR'' (See 72 FR 72613). On December 6, 2001, MDE submitted a letter acknowledging that the SIP approved regulations under COMAR 26.11.02 fulfill the requirements of 40 CFR 51.165 (a)(6) and (a)(6)(vi). This letter is included in the docket for the proposed rulemaking.

*B. $NO_X$ as a Precursor to Ozone*

This SIP submission corrects a deficiency identified by EPA in the March 27, 2008 **Federal Register** action entitled, ''Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone National Ambient Air Quality Standards (1997 Ozone NAAQS)'' (73 FR 16205). EPA's proposed approval of this SIP submission addresses Maryland's compliance with the portion of CAA section 110(a)(2)(C) & (J) relating to the CAA's parts C and D permit programs for the 1997 Ozone NAAQS, because this proposed approval would approve regulating $NO_X$ as a precursor to ozone in Maryland's SIP in accordance with the **Federal Register** action dated November 29, 2005 (70 FR 71612) that finalized $NO_X$ as a precursor for ozone regulations set forth at 40 CFR 51.165 and in 40 CFR 52.21.

*C. $PM_{2.5}$*

On May 16, 2008, EPA promulgated the final ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28321). That action established NSR applicability for $PM_{2.5}$ precursor pollutants, established major source thresholds and significant emissions rates for $PM_{2.5}$ and its precursors, and laid out a road map for states to use in transitioning to addressing condensable particulate matter. By incorporating by reference the federal regulations of 40 CFR 52.21 as codified in the July 1, 2009 edition of the Code of Federal Regulations and submitting that change to EPA to be approved as a SIP revision, Maryland has met its statutory obligations for PSD under the May 16, 2008 $PM_{2.5}$ rule.

*D. Infrastructure*

Section 110(a) of the CAA requires states to submit SIPs that provide for the implementation, maintenance, and enforcement of new or revised NAAQS within three years following the promulgation of such NAAQS. EPA is proposing to make a determination that the above described submittals meet the portions of the CAA section 110(a)(2)(C), (D)(i)(II) and (J) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS which relate to Maryland's PSD permit program. A summary of EPA's review of, and rationale for, approving Maryland's submittals for purposes of meeting these statutory requirements may be found in the Technical Support Document (TSD) for this action. These proposed SIP Revisions, along with previously approved SIP Revisions relating to Maryland's federally enforceable PSD program, support a finding that Maryland has met its statutory obligations pursuant to CAA section 110(a)(2) which relate to CAA title I, part C requirements, including, but not limited to, relevant portions of sections 110(a)(2)(C), (D)(i)(II) and (J).

*E. Greenhouse Gases*

A detailed explanation of GHGs, climate change and the impact on health, society, and the environment is included in EPA's technical support documents (TSDs) for EPA's GHG endangerment finding final rule (Document ID No. EPA–HQ–OAR–2009–0472–11292 at *www.regulations.gov*), as well as the TSD for this current action.

With regard to GHGs, the proposed action on the Maryland SIP generally relates to four federal rulemaking actions. The first rulemaking is EPA's Tailoring Rule. The second rulemaking is EPA's ''Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call,'' (GHG SIP Call) proposed on September 2, 2010 (75 FR 53892). The third rulemaking is EPA's ''Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,'' (GHG FIP) also proposed on September 2, 2010 (75 FR 53883), which serves as a companion rulemaking to EPA's proposed GHG SIP Call. The fourth rulemaking is the ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans'' 75 FR 82536 (Narrowing Rule) (December 30, 2010). A summary of each of these rulemakings is described below.

In the first rulemaking, the Tailoring Rule, EPA established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources. In the second rulemaking, the GHG SIP Call, EPA proposed to find that the EPA-approved PSD programs in 13 States (not including Maryland) are substantially inadequate to meet CAA requirements because they do not appear to apply PSD requirements to GHG-emitting sources. For each of these States, EPA proposed to require the State (through a ''SIP Call'') to revise its SIP as necessary to correct such inadequacies. In the third rulemaking, the GHG FIP, EPA proposed a FIP to apply in any state that is unable to submit, by its deadline, a SIP revision to ensure that the state has authority to issue PSD permits for GHG-emitting sources. Because Maryland already has authority to regulate GHGs, Maryland is only seeking to revise its SIP to put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, thereby ensuring that smaller GHG sources emitting less than these thresholds are not subject to permitting requirements.

In the Narrowing Rule, EPA limited its approval of those states' programs which had the authority to regulate GHG's, but lacked a vehicle to limit applicability to the higher thresholds established by the Tailoring Rule. Maryland was one of the states impacted by the Narrowing Rule. With the regulations submitted in the proposed SIP revision, Maryland has adopted EPA's tailoring approach. These changes to Maryland's regulations are also consistent with section 110 of the CAA because they are incorporating GHGs for regulation in the Maryland SIP.

A complete overview of GHGs and GHG-emitting sources, the CAA PSD program, minimum SIP elements for a PSD program, EPA's recent actions regarding GHG permitting, as well as the relationship between the proposed Maryland SIP revision and EPA's other national rulemakings, and EPA's analysis of Maryland's SIP revision can be found in the Technical Support Document (TSD) in the docket for this proposed rule making action.

## III. Proposed Action

Pursuant to Section 110 of the Clean Air Act, EPA is proposing to approve the Maryland SIP revisions as described above. EPA has made the preliminary determination that these revisions are approvable because they conform to the CAA and EPA regulations. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule regarding preconstruction requirements under Maryland's PSD and non-attainment NSR programs does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

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

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

Dated: March 7, 2012.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2012–6561 Filed 3–16–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 98

**[EPA–HQ–OAR–2011–0028; FRL–9649–7]**

**RIN 2060–AR39**

## Proposed Confidentiality Determinations for the Petroleum and Natural Gas Systems Source Category, and Amendments to Table A–7, of the Greenhouse Gas Reporting Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; Extension of public comment period.

**SUMMARY:** The EPA is announcing an extension of the public comment period for the proposed rule titled ''Proposed Confidentiality Determinations for the Petroleum and Natural Gas Systems Source Category, and Amendments to Table A–7, of the Greenhouse Gas Reporting Rule''.

**DATES:** The public comment period started on February 24, 2012 (77 FR 11039). This notice announces the extension of the deadline for public comment from March 26, 2012 to April 9, 2012. Comments must be received on or before April 9, 2012.

**ADDRESSES:** You may submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0028 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: GHGReportingRule@epa.gov.* Include Docket ID No. *EPA–HQ–OAR–2011–0028* in the subject line of the message.
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA–HQ–OAR–2011–0028, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, Attention Docket ID No. EPA–HQ–OAR–2011–0028, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. *EPA–HQ–OAR–2011–0028.* 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 for viewing at the EPA Docket Center. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility 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 Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.* For technical questions, please see the Greenhouse Gas Reporting Program Web site *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.* To submit a question, select *Rule Help Center,* followed by *Contact Us.*

**SUPPLEMENTARY INFORMATION:**

### Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's notice will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's greenhouse gas reporting rule Web site at *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.*

### Additional Information on Submitting Comments

To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in addition to the copy you submit to the official docket, to Carole Cook, U.S. EPA, Office of Atmospheric Programs, Climate Change Division, Mail Code 6207–J, Washington, DC 20460, telephone (202) 343–9263, email address: *GHGReportingRule@epa.gov.*

### Background on Today's Action

In this action, EPA is providing notice that it is extending the comment period on the proposed rule titled ''Proposed Confidentiality Determinations for the Petroleum and Natural Gas Systems Source Category, and Amendments to Table A–7, of the Greenhouse Gas Reporting Rule'' which was published on February 24, 2012. The current deadline for submitting public comment on that rule is March 26, 2012. EPA is extending that deadline to April 9, 2012. This extension will provide the general public additional time for public participation.

### List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: March 13, 2012.

**Sarah Dunham,**

*Director, Office of Atmospheric Programs.*

[FR Doc. 2012–6565 Filed 3–16–12; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 120213130–2129–01]**

**RIN 0648–XA973**

## Fisheries of the Northeastern United States; Proposed 2012 Spiny Dogfish Fishery Specifications

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This rule proposes a catch limit, commercial quota, and trip limit for the spiny dogfish fishery for the 2012 fishing year. The proposed action was developed by the Mid-Atlantic and New England Fishery Management Councils pursuant to the fishery specification requirements of the Spiny Dogfish Fishery Management Plan. The proposed management measures are supported by the best available scientific information and reflect recent increases in spiny dogfish biomass. The proposed action is expected to result in positive economic impacts for the spiny dogfish fishery while maintaining the conservation objectives of the Spiny Dogfish Fishery Management Plan.

**DATES:** Public comments must be received no later than 5 p.m., eastern standard time, on April 18, 2012.

**ADDRESSES:** An environmental assessment (EA) was prepared that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid Atlantic Fishery Management Council, Suite 201, 800 N. State St, Dover, DE 19901. The EA/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov*.

You may submit comments, identified by NOAA–NMFS–2012–0016, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''Submit a Comment'' icon, then enter ''NOAA–NMFS–2012–0016'' in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Fax:* (978) 281–9135, Attn: Tobey Curtis.
- *Mail:* Daniel S. Morris, Acting Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Spiny Dogfish Specifications.''

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov.* All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Tobey Curtis, Fishery Policy Analyst, (978) 281–9273; fax: (978) 281–9135.

**SUPPLEMENTARY INFORMATION:**

### Background

Spiny dogfish (*Squalus acanthias*) were declared overfished by NMFS in 1998. Consequently, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) required NMFS to prepare measures to end overfishing and rebuild the spiny dogfish stock. The Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) developed a joint fishery management plan (FMP), with the MAFMC designated as the administrative lead. The FMP was implemented in 2000, and the spiny dogfish stock was declared to be successfully rebuilt in 2010.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying an annual catch limit (ACL), commercial quota, trip limit, and other management measures for a period of 1–5 years. The annual quota is allocated to two semi-annual quota periods, as follows: Period 1, May 1 through October 31 (57.9 percent); and Period 2, November 1 through April 30 (42.1 percent).

The MAFMC's Scientific and Statistical Committee (SSC) reviews the best available information on the status of the spiny dogfish population and makes recommendations on acceptable biological catch (ABC). This recommendation is then used as the basis for catch limits and other management measures developed by the MAFMC's Spiny Dogfish Monitoring Committee and Joint Spiny Dogfish Committee (which includes members of the NEFMC). The MAFMC and NEFMC then review the recommendations of the committees and make their specification recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to ensure that they are consistent with the FMP and other applicable law. NMFS then publishes proposed measures for public comment.

### Spiny Dogfish Stock Status Update

In September 2011, the Northeast Fisheries Science Center (Center) updated spiny dogfish stock status, using the most recent catch data and biomass estimates from the 2011 spring trawl survey. Updated estimates indicate that the female spawning stock biomass (SSB) for 2011 is 169,415 mt, about 6 percent above the target maximum sustainable yield biomass proxy ($SSB_{max}$) of 159,288 mt. Additionally, the Center revised the fishing mortality rate (F) reference points that were approved by the SSC. The 2010 F estimate for the stock was 0.093, well below the overfishing threshold ($F_{MSY}$) of 0.2439. Therefore, the spiny dogfish stock is not currently overfished or experiencing overfishing. However, while recruitment has increased in recent years, poor pup production from 1997–2003 is projected to result in significant declines in SSB from 2014–2020.

The SSC subsequently recommended an ABC for spiny dogfish for the 2012 fishing year. The ABC recommendation was based on an overfishing level of median catch at the $F_{MSY}$ proxy, and the Council's risk policy for a Level 3 assessment (probability of overfishing = 40 percent). The resulting 2012 spiny dogfish ABC is 44.868 million lb (20,352 mt), which represents a 34-percent increase from the 2011 ABC.

### Council Recommendations

The Spiny Dogfish Monitoring Committee and the Atlantic States Marine Fisheries Commission's (Commission) Spiny Dogfish Technical Committee met on September 22, 2011, to determine the resulting specifications

following the Annual Catch Limit (ACL) and Accountability Measures Omnibus Amendment process (September 29, 2011; 76 FR 60606). After deducting the projected Canadian catch (131,175 lb (59 mt)), the domestic ACL for spiny dogfish would be 44.737 million lb (20,292 mt). No additional deductions were recommended to account for management uncertainty. Following additional reductions for projections of U.S. discards (8.997 million lb (4,081 mt)) and recreational landings (46,000 lb (21 mt)), the final 2012 commercial quota for spiny dogfish would be 35.694 million lb (16,191 mt) (a 78-percent increase from 2011).

The MAFMC met October 11–13, 2011, to recommend spiny dogfish management measures for the 2012 fishing year. The MAFMC voted to recommend that the commercial quota for spiny dogfish be set at 35.694 million lb (16,191 mt), with a daily commercial trip limit of 4,000 lb (1,815 kg). Both of these recommendations represent increases over the 2011 quota (20 million lb (9,072 mt)) and trip limit (3,000 lb (1,361 kg)).

However, several spiny dogfish processors expressed concerns that the dramatic increase in quota and trip limits could lead to unstable market conditions (e.g., low or fluctuating prices), and may not be in the best long-term interests of the fishery (due to the projected future decline in SSB). Additionally, the increased trip limit would likely result in mid-season closures, rather than allowing vessels to land dogfish continuously throughout the fishing year.

In response to these concerns, at its November 7–10, 2011, meeting, the Commission voted to implement a 30-million-lb (13,608-mt) commercial quota for state waters, and maintain the current 3,000-lb (1,361-kg) trip limit for the 2012 fishing year. Additionally, when the NEFMC met on November 17, 2011, it recommended a third alternative of a 35.694-million-lb (16,191-mt) quota with a 3,000-lb (1,361-kg) trip limit (Table 1). NMFS must select its preferred alternative for the 2012 spiny dogfish specifications from among the range of alternatives not rejected by both Councils.

TABLE 1—FISHING YEAR 2012 SPINY DOGFISH COMMERCIAL QUOTA AND TRIP LIMIT RECOMMENDATIONS

| Alternative | Commercial quota | Trip limit |
|---|---|---|
| MAFMC | 35.694 million lb (16,191 mt) | 4,000 lb (1,815 kg). |
| NEFMC | 35.694 million lb (16,191 mt) | 3,000 lb (1,361 kg). |
| Commission | 30.000 million lb (13,608 mt) | 3,000 lb (1,361 kg). |
| Status Quo | 20.000 million lb (9,072 mt) | 3,000 lb (1,361 kg). |

**Proposed Measures**

NMFS proposes that the spiny dogfish ACL be set at 44.737 million lb (20,292 mt) for the 2012 fishing year. If this ACL is exceeded, the accountability measures described at § 648.233 would be implemented. Additionally, NMFS has reviewed the recommendations of the Councils and Commission and concluded that, despite industry concerns about the higher quota recommendations, there is not a significant biological basis for a lower quota in 2012. The Councils' recommendations favor short-term yield over potential long-term stock stability, but are still not projected to result in overfishing. If spiny dogfish SSB declines in coming years, as projected, catch limits would be appropriately reduced in those years.

Therefore, NMFS proposes to impose a commercial quota of 35.694 million lb (16,191 mt) and to maintain the status quo trip limit of 3,000 lb (1,361 kg) for the 2012 fishing year (consistent with the NEFMC recommendation). Based on the percentage allocations specified in the FMP, quota Period 1 (May 1 through October 31) would be allocated 20.667 million lb (9,374 mt), and quota Period 2 (November 1 through April 30) would be allocated 15.027 million lb (6,816 mt). The significant quota increase in conjunction with the status quo trip limit should help avoid prolonged fishery closures, extend the fishing season, reduce regulatory discards, and maximize revenues for vessels that land spiny dogfish.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The MAFMC prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the MAFMC (see **ADDRESSES**).

The Small Business Administration (SBA) considers commercial fishing entities (NAICS code 114111) to be small entities if they have no more than $4 million in annual sales, while the size standard for charter/party operators (part of NAICS code 487210) is $7 million in sales. All of the entities (fishing vessels) affected by this action are considered small entities under the SBA size standards for small fishing businesses. Although multiple vessels may be owned by a single owner, ownership tracking is not readily available to reliably ascertain affiliated entities. Therefore, for the purposes of this analysis, each permitted vessel is treated as a single small entity and is determined to be a small entity under the RFA. Accordingly, there are no differential impacts between large and small entities under this rule. Information on costs in the fishery is not readily available, and individual vessel profitability cannot be determined directly; therefore, expected changes in gross revenues were used as a proxy for profitability.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

*Description and Estimate of Number of Small Entities to Which the Rule Would Apply*

The proposed increase in the spiny dogfish commercial quota would impact vessels that hold Federal open access commercial spiny dogfish permits, and participate in the spiny dogfish fishery. According to MAFMC's analysis, 2,942 vessels were issued spiny dogfish permits in 2010. However, only 326 vessels landed any amount of spiny dogfish. While the fishery extends from Maine to North Carolina, most active vessels were from (in descending order)

Massachusetts, New Jersey, New Hampshire, Rhode Island, New York, North Carolina, and Virginia.

*Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives*

The alternatives considered and analyzed by the Councils are summarized in Table 1 above. The proposed action reflects the recommendation of the NEFMC. The purpose of the proposed action is to increase spiny dogfish catch limits and landings, consistent with the best available science, thereby extending the duration of the fishing season and increasing revenue relative to the status quo. The proposed action is expected to maximize the short-term profitability for the spiny dogfish fishery during the 2012 fishing year, without jeopardizing the long-term sustainability of the stock. Therefore, the economic impacts resulting from the proposed action as compared to the other alternatives are positive.

The proposed action is almost certain to result in greater revenue from spiny dogfish landings, which would be up to 78 percent higher than the status quo quota. Based on recent landings information, the spiny dogfish fishery is able to land close to the full amount of fish allowable under the quotas. Total spiny dogfish revenue from the 2010 fishing year was approximately $3.119 million. Assuming the 2010 average price ($0.21 per lb), landing the proposed quota of 35.694 million lb (16,191 mt) would result in revenues of approximately $7.655 million in 2012. The Commission's quota alternative of 30 million lb (13,608 mt) would result in revenues of approximately $6.434 million, which is also an increase over the Status Quo/No Action alternative of approximately $4.289 million in revenue. The expected increases in spiny dogfish revenue should benefit those ports that are more heavily dependent on spiny dogfish revenue than other communities, including Virginia Beach, Virginia; Hatteras, North Carolina; Rye, New Hampshire; Chatham, Massachusetts; and Ocean City, Maryland.

The proposed commercial trip limit of 3,000 lb (1,361 kg) is equal to the Status Quo/No Action alternative trip limit, and should therefore have no additional economic impacts. The MAFMC's alternative with a 4,000-lb (1,815-kg) trip limit could result in greater short-term revenue per trip, but result in a shorter fishing season due to fishery closures once the quota was reached. Therefore, the proposed trip limit is expected to prolong the fishing season and the positive impacts to communities over the course of the fishing year.

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

Dated: March 13, 2012.

**Alan D. Risenhoover,**

*Action Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2012–6576 Filed 3–16–12; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 77, No. 53
Monday, March 19, 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

### Submission for OMB Review; Comment Request

March 14, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), OIRA_Submission@OMB.EOP.GOV or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Farm Service Agency**

*Title:* Direct Loan Servicing—Special.

*OMB Control Number:* 0560–0232.

*Summary of Collection:* The Farm Loan Programs (FLP) provides loans to family farmers to purchase real estate and equipment and finance agricultural production. The regulation describes the policies and procedures for Farm Service Agency's (FSA) servicing of financially distressed or delinquent direct loan borrowers in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (Pub. L. 87–128), as amended. Direct Loan Servicing—Special, as specified in 7 CFR part 766, provides the requirements for servicing financially distressed and delinquent direct loan borrowers. FSA's loan servicing options include disaster set-aside, primary loan servicing, (including reamortization, rescheduling, deferral, write down and conservation contracts), buyout at market value, and homestead protection. In addition, the regulations describe FSA's policies and procedures regarding servicing of direct loan borrowers who file bankruptcy, as well as liquidation of security when available servicing options do not result in a feasible plan.

*Need and Use of the Information:* FSA will collect information using several FSA forms to provide supervised credit and authorized servicing actions to financially distressed and delinquent direct loan borrowers. Failure to collect the information could result in the failure of the farm operation or loss of Agency security property.

*Description of Respondents:* Farms; Business or other for-profit.

*Number of Respondents:* 14,929.

*Frequency of Responses:* Reporting: On occasion; Annually.

*Total Burden Hours:* 15,832.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2012–6556 Filed 3–16–12; 8:45 am]

**BILLING CODE 3410–05–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Southern Region Recreation Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting via teleconference.

**SUMMARY:** The Southern Region Recreation Resource Advisory Committee will hold a meeting via teleconference. The purpose of the teleconference is to discuss committee roles and responsibilities and to set a meeting date to consider fee proposals for areas managed by the Forest Service in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and the territory of Puerto Rico; and to discuss other items of interest related to the Federal Lands Recreation Enhancement Act of 2004.

A final agenda will be sent to regional media sources at least 7 days before the teleconference, and hard copies can also be mailed or sent via FAX. Individuals who need special, or who wish a hard copy of the agenda, should contact Caroline Mitchell at PO Box 1270, Hot Springs, AR 71902 or by phone at 501–321–5318 prior to the meeting.

**DATES:** The teleconference will be held April 10, 2012, beginning at 10 a.m. EST and ending at approximately 11:30 a.m. Alternate teleconference dates are April 24, 2012, May 10, 2012 and May 24, 2012 in case of postponement due to unforeseen circumstances. Please call 501–321–5202 prior to April 9th to determine postponment.

**ADDRESSES:** To participate in the teleconference from a remote location, call 501–321–5318 to obtain the phone number and access code. Additionally, teleconference equipment will be available to the public at 100 Reserve Street, Hot Springs, Arkansas. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Caroline Mitchell, Committee Coordinator, USDA, P.O. Box 1270, Hot Springs, AR 71902. (501–321–5318). Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between

Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed in **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** Individuals wishing to make an oral statement should request in writing by April 9, 2012, to be scheduled on the agenda. Send written comments and requests to Southern Region Recreation RAC, Caroline Mitchell, P.O. Box 1270, Hot Springs, AR 71902, or by email to *carolinemitchell@fs.fed.us,* or via facsimile to 501–321–5399. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the same location. A summary of the meeting will be posted at *http://www.fs.fed.us/r8/rrac/index.php* within 21 days of the meeting.

Dated: March 9, 2012.

**Alison Koopman,**

*Designated Federal Official.*

[FR Doc. 2012–6536 Filed 3–16–12; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

### Notice of Request for Extension of a Currently Approved Information Collection

**AGENCY:** The Rural Housing Service, USDA.

**ACTION:** Proposed collection; Comments requested.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for Self-Help Technical Assistance Grants (7 CFR part 1944–I).

**DATES:** Comments on this notice must be received by May 18, 2012 to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** Andrea Birmingham, Loan Specialist, Single Family Housing Direct Loan Division, RHS, U.S. Department of Agriculture, Stop 0783, 1400 Independence Ave. SW., Washington DC 20250–0783, Telephone (202) 720–1489.

**SUPPLEMENTARY INFORMATION:**

*Title:* 7 CFR 1944–I, Self-Help Technical Assistance Grants.

*OMB Number:* 0575–0043.

*Expiration Date of Approval:* July 31, 2012

*Type of Request:* Extension of currently approved information collection.

*Abstract:* This subpart set forth the policies and procedures and delegates authority for providing technical assistance funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing loan program, as authorized under section 523 of the Housing Act of 1949 under 42 U.S.C. 1472. This financial assistance may pay part or all of the cost of developing, administering or coordinating program of technical and supervisory assistance to aid very low- and low-income families in carrying out self-help housing efforts in rural areas. The primary purpose is to locate and work with families that otherwise do not qualify as homeowners, are below the 50 percent of median incomes, and living in substandard housing.

RHS will be collecting information from non-profit organizations to enter into grant agreements. These non-profit organizations will give technical and supervisory assistance, and in doing so, they must develop a final application for section 523 grant funds. This application includes Agency forms that contain essential information for making a determination of eligibility.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1.35 hours per response.

*Respondents:* Public or private nonprofit organizations, State, Local or Tribal Governments.

*Estimated Number of Respondents:* 140.

*Estimated Number of Responses per Respondent:* 20.03.

*Estimated Number of Responses:* 2,804.

*Estimated Total Annual Burden on Respondents:* 3,787.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0040.

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 1, 2012.

**Tammye Trevino,**

*Administrator, Rural Housing Service.*

[FR Doc. 2012–6472 Filed 3–16–12; 8:45 am]

**BILLING CODE 3410–XV–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 16–2012]**

### Foreign-Trade Zone 148—Knoxville, TN; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Industrial Development Board of Blount County and the Cities of Alcoa and Maryville, Tennessee, grantee of FTZ 148, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 1/12/09 (correction 74 FR 3987, 1/22/09); 75 FR 71069–71070, 11/22/10). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 13, 2012.

FTZ 148 was approved by the Board on June 28, 1988 (Board Order 384, 53 FR 26095, 07/11/1988) and expanded on August 21, 2003 (Board Order 1294, 68

FR 52385, 09/03/2003) and October 6, 2006 (Board Order 1481, 71 FR 61017–61018, 10/17/2006).

The current zone project includes the following sites: *Site 1* (0.61 acres)—McGhee Tyson Airport, State Route 129, Alcoa; *Site 2* (42 acres)—Colinx LLC warehousing facility, 1536 Genesis Road, Crossville; *Site 3* (190 acres)—Partnership Park South, 1731 Fred Lawson Lane, Maryville; *Site 4* (13 acres)—within the 15-acre Heritage Center Technology Park and adjacent Tennessee Technology Park, 1065 West Perimeter Road and 2010 Highway 58, Oak Ridge; *Site 5* (71 acres, 2 parcels) within the Eagle Bend Industrial Park, 350 J.D. Yarnell Industrial Parkway, Clinton; *Site 6* (6 acres)—CoLinx LLC warehouse facility, 712 Interchange Drive, Crossville; and, *Site 7* (5.7 acres)—CoLinx LLC warehouse facility, 704 and 732 Industrial Boulevard, Crossville.

The grantee's proposed service area under the ASF would include all of Anderson, Blount, Campbell, Claiborne, Cocke, Cumberland, Grainger, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier and Union Counties, Tennessee, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Knoxville U.S. Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include existing Site 3, Site 4 and Site 5 as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 3 be so exempted. The applicant is also requesting that existing Site 2, Site 6 and Site 7 be designated as usage-driven sites, and that existing Site 1 be removed from the zone project due to changed circumstances. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 148's authorized subzones.

In accordance with the Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 18, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 4, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: March 13, 2012.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2012–6578 Filed 3–16–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Science Advisory Board (SAB); Notice of Open Meeting

**AGENCY:** Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of open meeting.

**SUMMARY:** The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

*Time and Date:* The meeting will be held Thursday, April 5, 2012 from 9 a.m. to 5:15 p.m. and Friday, April 6, 2012, from 9:15 a.m. to 2:30 p.m. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting agenda.

*Place:* The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle, Washington, DC 20005 Please check the SAB Web site *http://www.sab.noaa.gov* for directions to the meeting location.

*Status:* The meeting will be open to public participation with a 15 minute public comment period on April 5 at 5 p.m. (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Individuals or groups planning to make a verbal presentation should contact the SAB Executive Director by March 29, 2012 to schedule their presentation. Written comments should be received in the SAB Executive Director's Office by March 29, 2012 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after March 29, 2012 will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seating at the meeting will be available on a first-come, first-served basis.

*Special Accommodations:* These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12 p.m. on March 29, 2012, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910.

*Matters To Be Considered:* The meeting will include the following topics: (1) Update from the SAB Research and Development Portfolio Review Task Force; (2) External Review of the Cooperative Institute for Climate Science (CICS), Princeton University; (3) Proposed New Members for the Data Archive and Access Requirements Working Group (DAARWG); (4) Update from the SAB Satellite Task Force; (5) NOAA Response to the SAB Report on Fisheries Enterprise Data Management; (6) NOAA Response to Congress on Compensation Policy for Specialized Satellite Data Products and Services; (7) NOAA Report on Needs Assessment for Science Advisory Board Working Groups; (8) Use of the NOAA Logo by Affiliated Partners; and (9) Updates from SAB Working Groups.

**FOR FURTHER INFORMATION CONTACT:** Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov;* or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

Dated: March 12, 2012.

**Mark E. Brown,**

*Chief Financial Officer\Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2012–6485 Filed 3–16–12; 8:45 am]

**BILLING CODE 3510–KD–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XB083**

### Endangered Species; File No. 15672

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

**ACTION:** Issuance of permit.

**SUMMARY:** Notice is hereby given that Molly Lutcavage, Ph.D., University of Massachusetts, Amherst, 108 Main Street, Gloucester MA 01930 has been issued a permit to take leatherback sea turtles (*Dermochelys coriacea*) for purposes of scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394.

**FOR FURTHER INFORMATION CONTACT:** Colette Cairns or Amy Hapeman, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** On April 26, 2011, notice was published in the **Federal Register** (76 FR 23305) that a request for a scientific research permit to take leatherback sea turtles had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The five year permit authorizes Dr. Lutcavage to conduct research to characterize the distribution, movements and dive behavior of leatherback sea turtles in the waters of New England. Researchers may take up to 25 leatherback sea turtles annually that have been disentangled from fishing gear by a stranding network or captured with a breakaway hoopnet. Turtles would be measured, weighed, photographed and videotaped, flipper and passive integrated transponder tagged, blood, tissue, and fecal sampled, cloacal, oral, and nasal swabbed, tagged with an electronic transmitter, and released.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 13, 2012.

**Tammy C. Adams,**

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

[FR Doc. 2012–6574 Filed 3–16–12; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

**[Docket No. PTO–C–2012–0011]**

### National Medal of Technology and Innovation Nomination Evaluation Committee Charter Renewal

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Chief Financial Officer and Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the Charter for the National Medal of Technology and Innovation Nomination Evaluation Committee on March 1, 2012.

**DATES:** The Charter for the National Medal of Technology and Innovation Nomination Evaluation Committee was renewed on March 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Richard Maulsby, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–8333 or by electronic mail: *nmti@uspto.gov.* Information is also available on the following Web site: *http://www.uspto.gov/about/nmti/index.jsp.*

**SUPPLEMENTARY INFORMATION:** The Chief Financial Officer and Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the Charter for the National Medal of Technology and Innovation Nomination Evaluation Committee (NMTI Committee) on March 1, 2012. This Notice is published in accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2, § 9). It has been determined that the Committee is necessary and in the public interest. The Committee was established in accordance with the FACA and provides advice to the Secretary on the implementation of Public Law 96–480 (15 U.S.C. 3711), as amended August 9, 2007, specifically with regard to recommendations of nominees for the Medal. The duties of the NMTI Committee are solely advisory in nature. Nominations for this Medal are solicited through an open, competitive, nationwide call for nominations and the NMTI Committee members are responsible for reviewing the nominations received. The NMTI Committee members are distinguished experts in the private and public sectors with experience in, or an understanding of, the development and utilization of technological innovations or technological manpower. The NMTI Committee evaluates the nominees and forwards its recommendations, through the Under Secretary of Commerce for Intellectual Property, to the Secretary who, in turn, forwards his recommendations for the Medal to the President.

Dated: March 13, 2012.

**Teresa Stanek Rea,**

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

[FR Doc. 2012–6527 Filed 3–16–12; 8:45 am]

**BILLING CODE 3510–16–P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Interim Procedures for Considering Requests From the Public for Textile and Apparel Safeguard Actions on Imports From Korea and Estimate of Burden for Collection of Information

**AGENCY:** The Committee for the Implementation of Textile Agreements.

**ACTION:** Notice of interim procedures and request for comments; estimate of information collection burden.

**SUMMARY:** This notice sets forth the procedures the Committee for the Implementation of Textile Agreements (''CITA'' or ''the Committee'') will

follow in considering requests from the public for textile and apparel safeguard actions as provided for in the United States-Korea Free Trade Agreement Implementation Act (''the Act''). The President has directed CITA to establish procedures that govern the submission of a request and provide the opportunity for interested entities to submit comments and supporting evidence in any such determination pursuant to the Act. CITA hereby gives notice to interested entities of the procedure CITA will follow in considering such requests and solicits public written comments on these interim procedures.

In accordance with the Paperwork Reduction Act, this notice further provides an estimate of the burden to the public to collect and submit information as for requesting such safeguard measures, for making its determinations under Section 332(a) of the Act, and for providing relief under Section 332(b) of the Act.

**DATES:** As of March 19, 2012, CITA intends to use these interim procedures to process requests from the public. CITA solicits public written comments on the interim procedures. Comments must be received no later than April 18, 2012 in either hard copy or electronically.

**ADDRESSES:** If submitting comments in hard copy, an original, signed document must be submitted to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. If submitting comments electronically, an electronic copy, via electronic mail (''email'') must be submitted to *OTEXA.KOREA@trade.gov*. All submitted comments will be posted for public review on the Web site dedicated to U.S.-Korea FTA textile and apparel safeguard proceedings. The Web site is located on the U.S. Department of Commerce's Office of Textile and Apparel Web site (*www.otexa.ita.doc.gov*), under ''Korea FTA''/''Safeguards'' Additional instructions regarding the submission of comments may be found at the end of this notice.

**FOR FURTHER INFORMATION CONTACT:** Maria D'Andrea, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–1550.

**SUPPLEMENTARY INFORMATION:** Title III, Subtitle C, Section 331 through Section 338 of the United States-Korea Free Trade Agreement Implementation Act (the ''Act'') [Public Law 112–41] implements the textile and apparel safeguard provision, provided for in Article 4.1 of the United States-Korea Free Trade Agreement (the ''Agreement''). The safeguard mechanism applies when, as a result of the reduction or elimination of a customs duty under the Agreement, a Korean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 4.1.1(b) permits the United States to (a) suspend any further reduction in the rate of duty provided for under Annex 2–B of the Agreement in the duty imposed on the article; or (b) increase duties on the imported article from Korea to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (''NTR'')/most-favored-nation (''MFN'') duty rate for the article or the U.S. NTR/MFN duty rate in effect on the day before the Agreement enters into force. In Presidential Proclamation 8783 (77 FR 14265, March 9, 2012), the President delegated to the Committee certain functions under Subtitle C of Title III of the Act.

The import tariff relief is effective beginning on the date that the Committee determines that a Korean textile or apparel article as defined in section 301(3) of the Act, is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article. Consistent with Section 333(a) of the Act, the initial period of import tariff relief, as set forth in section 3 of this notice, shall be two years. The Committee may extend the period of import relief for a period not more than two years if the Committee determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition, and that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be applied to the same article under these procedures if (1) relief previously has been granted with respect to that article under these provisions, or (2) the article is subject to relief under (a) Subtitle A of Title III of the Act (Chapter Ten (Trade Remedies of the Agreement), or (B) Chapter 1 of Title III of the Trade Act of 1974 (19 U.S.C. 2133).

Authority to provide import tariff relief with respect to a Korean textile or apparel article will expire ten years after duties on the article are eliminated pursuant to the Agreement.

Under Article 4.1.6 of the Agreement, if the United States provides relief to a domestic industry under the textile and apparel safeguard, it must provide Korea ''mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the emergency action.'' Such concessions shall be limited to textile and apparel products, unless the United States and Korea agree otherwise. If the United States and Korea are unable to agree on trade liberalizing compensation, Korea may increase customs duties equivalently on U.S. products. The obligation to provide compensation terminates upon termination of the safeguard relief. Section 337 of the Act extends the President's authority to provide compensation under Section 123 of the Trade Act of 1974, as amended, to measures taken pursuant to the Agreement's textile and apparel safeguard provision.

**Procedures for Requesting Textile and Apparel Safeguard Actions**

1. *Requirements for Requests.* Pursuant to Section 331(a) of the Act and Section 7 of Presidential Proclamation 8783, an interested party may file a request for a textile and apparel safeguard action with the Committee. The Committee will review requests from the interested party sent to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Ten copies of any such request must be provided. As provided in Section 338 of the Act, the Committee will protect from disclosure any business confidential information that is marked ''business confidential'' to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. At the conclusion of the request, an interested party must attest that ''all information contained in the request is complete and accurate and no false claims, statements, or representations have been made.'' Consistent with Section 331(a) of the

Act, the Committee will review a request initially to determine whether to commence consideration of the request on its merits. Within 15 business days of receipt of a request, the Committee will determine whether the request provides the information necessary for the Committee to consider the request in light of the considerations set forth below. If the request does not, the Committee will promptly notify the requester of the reasons for this determination and the request will not be considered. However, the Committee will reevaluate any request that is resubmitted with additional information.

Consistent with longstanding Committee practice in considering textile and apparel safeguard actions, the Committee will consider an interested party to be an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) A domestic producer or producers of an article that is like or directly competitive with the subject Korean textile or apparel article; or (B) a domestic producer or producers of a component used in the production of an article that is like or directly competitive with the subject Korean textile or apparel article. *See* ''Procedures for Considering Requests from the Public for Textile and Apparel Safeguard Actions on Imports from Peru'', 76 FR 9556 (February 18, 2011).

A request will only be considered if the request includes the specific information set forth below in support of a claim that a textile or apparel article from Korea is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article.

A. *Product description.* Name and description of the imported article concerned, including the Harmonized Tariff Schedule of the United States subheading(s) (HTSUS) (*http://www.usitc.gov/tata/hts*) under which such article is classified, and the name and description of the like or directly competitive domestic article concerned.

B. *Import data.* The following data, in quantity by HTSUS, on total imports of the subject article into the United States and imports from Korea into the United States:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

The data should demonstrate that imports of a Korean origin textile or apparel article that are like or directly competitive with the articles produced by the domestic industry concerned are increasing in absolute terms or relative to the domestic market for that article.

C. *Production data.* The following data, in quantity, on U.S. domestic production of the like or directly competitive articles of U.S. origin indicating the nature and extent of the serious damage or actual threat thereof:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

The requester must provide a complete listing of all sources from which the data were obtained and an affirmation that to the best of the requester's knowledge, the data represent substantially all of the domestic production of the like or directly competitive article(s) of U.S. origin. In such cases, data should be reported in the first unit of quantity in the Harmonized Tariff Schedule of the United States (*http://www.usitc.gov/tata/hts* ) for the Korean origin textile and/or apparel articles and the like or directly competitive articles of U.S. origin.

D. *Market Share Data.* The following data, in quantity, on imports from Korea as a percentage of the domestic market (defined as the sum of domestic production of the like or directly competitive article and total imports of the subject article); on total imports as a percentage of the domestic market; and on domestic production of like or directly competitive articles as a percentage of the domestic market:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) for the previous year (e.g. January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

E. *Additional data showing serious damage or actual threat thereof.* All data available to the requester showing changes in productivity, utilization of capacity, inventories, exports, wages, employment, domestic prices, profits, and investment, and any other information, relating to the existence of serious damage or actual threat thereof caused by imports from Korea to the industry producing the like or directly competitive article that is the subject of the request. To the extent that such information is not available, the requester should provide best estimates and the basis therefore:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) for the previous year (e.g. January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

2. *Consideration of Requests.* Consistent with Section 331(b) of the Act, if the Committee determines that the request provides the information necessary for it to be considered, the Committee will cause to be published in the **Federal Register** a notice seeking public comments regarding the request, which will include a summary of the request and the date by which comments must be received. The **Federal Register** notice and the request, with the exception of information marked ''business confidential'', will be posted by the Department of Commerce's Office of Textiles and Apparel (''OTEXA'') on the Internet (*http://otexa.ita.doc.gov*). The comment period shall be 30 calendar days.

If business confidential information is submitted, a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. At the conclusion of all such comments, an interested party must attest that ''all information contained in the request is complete and accurate and no false claims, statements, or representations have been made.'' Comments received, with the exception of information marked ''business confidential'', will also be on the Internet (*http://otexa.ita.doc.gov*) for review by the public. If a comment alleges that there is no serious damage or actual threat thereof, or that the subject imports are not the cause of the serious damage or actual threat thereof, the Committee will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive articles. The Committee will fully consider all requests, including those

submitted by entities that are not the actual producers of a like or directly competitive article, however the Committee will give particular consideration to comments representing the views of actual producers in the United States of a like or directly competitive article.

Any interested party may submit information to rebut, clarify, or correct public comments submitted by any other interested party at any time prior to the deadline provided in this section for submission of such public comments. If public comments are submitted less than 10 days before, or on, the applicable deadline for submission of such public comments, an interested party may submit information to rebut, clarify, or correct the public comments no later than 10 days after the applicable deadline for submission of public comments.

With respect to any request considered by the Committee, the Committee will make a determination within 60 calendar days of the close of the comment period. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published in a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**.

3. *Determination and Provision of Relief.* The Committee shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Korean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. In making a determination, the Committee: (1) Shall examine the effect of increased imports on the domestic industry as reflected in such relevant economic factors as output, productivity, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and (2) shall not consider changes in technology or consumer preferences as factors supporting a determination of serious damage or actual threat thereof. The Committee, without delay, will provide written notice of its decision to the Government of Korea and will consult with said party upon its request.

If a determination under this section is affirmative, the Committee may provide import tariff relief to a U.S. industry to the extent necessary to remedy or prevent the serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition. Such relief may consist of (a) suspension of any further reduction in the rate of duty provided for under Annex 2–B of the Agreement in the duty imposed on the article; or (b) an increase in duties to the lower of: (1) The NTR/MFN duty rate in place for the textile or apparel article at the time the relief is granted; or (2) the NTR/MFN duty rate for that article on the day before the Agreement enters into force.

The import tariff relief is effective beginning on the date that the Committee's affirmative determination is published in the **Federal Register**. The maximum period of import tariff relief shall not exceed two years. However, the Committee may extend the period of import relief to the maximum four years if the Committee determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition, and that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be imposed for an aggregate period greater than four years. Import tariff relief may not be applied to the same article under these procedures if (1) relief previously has been granted with respect to that article under these provisions, or (2) the article is subject to relief under (A) Subtitle A of Title III of the Act, or (B) Chapter 1 of Title III of the Trade Act of 1974.

Authority to provide import tariff relief for a textile or apparel article from Korea that is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article, will expire ten years after duties on the article are eliminated pursuant to this Agreement.

4. *Self Initiation.* The Committee may, on its own initiative, consider whether imports of a textile or apparel article from Korea are being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In such considerations, the Committee will follow procedures consistent with those set forth in section 2 of this notice, including causing to be published in the **Federal Register** a notice seeking public comment regarding the action it is considering.

5. *Record Keeping and Business Confidential Information.* OTEXA will maintain an official record for each request on behalf of the Committee. The official record will include all factual information, written argument, or other material developed by, presented to, or obtained by OTEXA regarding the request as well as other material provided to the Department of Commerce by other government agencies for inclusion in the official record. The official record will include Committee memoranda pertaining to the request, memoranda of Committee meetings, meetings between OTEXA staff and the public, determinations, and notices published in the **Federal Register**. The official record will contain material which is public, business confidential, privileged, and classified, but will not include pre-decisional inter-agency or intra-agency communications. If the Committee decides it is appropriate to consider materials submitted in an untimely manner, such materials will be maintained in the official record. Otherwise, such material will be returned to the submitter and will not be maintained as part of the official record. OTEXA will make the official record public except for business confidential information, privileged information, classified information, and other information the disclosure of which is prohibited by U.S. law. The public record will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. on business days.

Information designated by the submitter as business confidential will normally be considered to be business confidential unless it is publicly available. The Committee will protect from disclosure any business confidential information that is marked ''business confidential'' to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. The Committee will make available to the public non-confidential versions of the request that is being considered, non-confidential versions of any public comments

received with respect to a request, and in the event consultations are requested, the statement of the reasons and justifications for the determination subsequent to the delivery of the statement to Korea.

**Request for Comment on the Interim Procedures**

Comments must be received no later than April 18, 2012 and in the following format:

(1) Comments must be in English.

(2) Comments must be submitted electronically or in hard copy, with original signatures.

(3) Comments submitted electronically, via email, must be either in PDF or Word format, and sent to the following email address: *OTEXA.KOREA@trade.gov.* The email version of the comments must include an original electronic signature. Further, the comments must have a bolded heading stating ''Public Version'', and no business confidential information may be included. The email version of the comments will be posted for public review on the KOREA FTA Safeguard Web site.

(4) Comments submitted in hard copy must include original signatures and must be mailed to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. All comments submitted in hard copy will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. on business days. In addition, comments submitted in hard copy will also be posted for public review on the KOREA FTA Safeguard Web site.

(5) Any business confidential information upon which an interested person wishes to rely may only be included in a hard copy version of the comments. Brackets must be placed around all business confidential information. Comments containing business confidential information must have a bolded heading stating ''Confidential Version.'' Attachments considered business confidential information must have a heading stating ''Business Confidential Information''. The Committee will protect from disclosure any business confidential information that is marked ''Business Confidential Information'' to the full extent permitted by law.

**Estimate of Burden to the Public for Collection of Information and Request for Public Comment**

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Korean, thereby allowing CITA to take corrective action to protect the viability of the domestic textile or apparel industry, subject to section 332(b) of the Act. This information collection is subject to review and approval by the Office of Management and Budget's (''OMB'') OMB under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

OMB has approved under Control Number 0625–0269 the interim procedures requiring the collection of information under the emergency provisions of the PRA. In accordance with the PRA, CITA has estimated the ''burden'' (in number of hours) on the public to submit information required by CITA under its interim procedures. CITA hereby provides the public the opportunity to provide comment on its estimates of the burden on the public to submit information to CITA under the U.S.-Korea FTA textile and apparel safeguard mechanism.

*Estimate of Burden as a Result of Information Collection:* Based on the number of Requests and Comments filed per year, and the average amount of time required to submit a Request and Response, CITA estimates that a total annual burden to the public is 56 hours per year. A further breakdown of its estimates of the number of hours to collect and provide information to CITA for Requests and Comments is provided in detail below.

*Requests:* CITA estimates that 4 Requests will be filed per year under the U.S.-Korea FTA textile and apparel safeguard mechanism. Based on the following activities required to submit a request, CITA estimates that the total time to collect and present information in a Request is 4 hours, for a total of 16 hours per year.

| Activity | Time required (hours) |
|---|---|
| Preparing Request | 3 |
| Preparing Supporting Documentation | 1 |
| Total Time per Request | 4 |
| Times 4 Request per Year | 16 |

*Comments:* CITA estimates that 10 Comments will be filed per year in response to the Request under the U.S.-Korea FTA textile and apparel safeguard mechanism. Based on the following activities required to submit a comment, CITA estimates that the total time to collect and present information in a Comment is 4 hours, for a total of 40 hours per year.

| Activity | Time required (hours) |
|---|---|
| Preparing Comments | 3 |
| Preparing Supporting Documentation | 1 |
| Total Time per Comment | 4 |
| Times 10 Comments per Year | 40 |

Combined, these three information collections represent an annual burden of 56 hours. Copies of the above estimate can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th & Constitution Avenue NW., Washington, DC 20230 or via email at *JJessup@doc.gov.*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

**Kimberly Glas,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 2012–6715 Filed 3–15–12; 4:15 pm]

**BILLING CODE 3510–DS–P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Interim Procedures for Considering Requests Under the Commercial Availability Provision of the United States-Korea Free Trade Agreement and Estimate of Burden for Collection of Information

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Notice of interim procedures and request for comments; estimate of information collection burden.

**SUMMARY:** This notice sets forth the interim procedures the Committee for the Implementation of Textile Agreements (''CITA'') will follow in implementing certain provisions of the United States-Korea Free Trade Agreement Implementation Act (the

''Act''). Section 202(o)(3)(F) of the Act provides that the President shall establish procedures to govern the submission of requests to modify the list of fibers, yarns, or fabrics not available in commercial quantities in a timely manner in the United States as set out in Annex 4–B–1 of the United States-Korea Free Trade Agreement (the ''Agreement''). The President has delegated to CITA the authority to determine whether fibers, yarns, or fabrics are not available in commercial quantities in a timely manner in the United States and has directed CITA to establish procedures that govern the submission of a request and provide the opportunity for interested entities to submit comments and supporting evidence in any such determination pursuant to the Act and the Agreement. CITA hereby gives notice to interested entities of the procedure CITA will follow in considering such requests and solicits public written comments on these interim procedures.

In accordance with the Paperwork Reduction Act, this notice further provides an estimate of the burden to the public to collect and submit information as required by Section 202(o)(3)(F) of the Act and CITA's interim procedures. CITA hereby gives notice of the estimated burden to the public.

**DATES:** As of March 19, 2012, CITA intends to use these interim procedures to process requests from the public. CITA solicits public written comments on the interim procedures. Comments must be received no later than April 18, 2012 in either hard copy or electronically.

**ADDRESSES:** If submitting comments in hard copy, an original, signed document must be submitted to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. If submitting comments electronically, an electronic copy, via electronic mail (''email'') must be submitted to *OTEXA.KOREA@trade.gov*. All submitted comments will be posted for public review on the Web site dedicated to U.S.-Korea FTA commercial availability proceedings. The Web site is located on the U.S. Department of Commerce's Office of Textile and Apparel Web site (*www.otexa.ita.doc.gov*), under ''Commercial Availability''/''Korea FTA.'' Additional instructions regarding the submission of comments may be found at the end of this notice.

**FOR FURTHER INFORMATION CONTACT:** Maria D'Andrea, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–1550.

**SUPPLEMENTARY INFORMATION:** Legal Authority: Section 202(o) of the Act; Proclamation No. 8783 (77 FR 14265, March 9, 2012); and the United States-Korea Free Trade Agreement.

**Background**

The Agreement provides for a list in Appendix 4–B–1 for fibers, yarns, and fabrics that the United States has determined are not available in commercial quantities in a timely manner from suppliers in the United States. A textile or apparel good imported into the United States containing fibers, yarns, or fabrics that are included on the list in Appendix 4–B–1 of the Agreement will be treated as if it is an originating good for purposes of the specific rules of origin in Annex 4–A of the Agreement, regardless of the actual origin of those inputs, in accordance with the specific rules of origin of Annex 4–A. Section 202(o)(3)(F) of the Act provides that the President shall establish procedures under sections 202(o)(3)(C) and (E) in order to determine whether fibers, yarns, or fabrics are not available in commercial quantities in a timely manner in the United States, and whether a fiber, yarn, or fabric should be removed from the list in Appendix 4–B–1 when it has become available in commercial quantities.

In accordance with Annex 4–B–5 of the Agreement, the preferential tariff treatment accorded to a good provided in Harmonized Tariff Schedule of the United States (HTSUS) Chapters 51, 52, 54, 55, 58, or 60 that contains fibers, yarns, or fabric that are included in Appendix 4–B–1 of the Agreement and that satisfies the requirements of Rule 1 of Section XI of Annex 4–A, is limited to 100 million square meter equivalents in each of the first five years in which the Agreement is in force.

In accordance with Annex 4–B–6 of the Agreement, the preferential tariff treatment accorded to a good provided in HTSUS Chapters 61 or 62 that contains fibers, yarns, or fabric that are included in Appendix 4–B–1 of the Agreement and that satisfies the requirements of Rule 2 or 3 of Section XI of Annex 4–A, is limited to 100 million square meter equivalents in each of the first five years in which the Agreement is in force.

To determine the quantity of square meter equivalents that is charged against the annual quantities described above, CITA shall apply the conversion factors listed in, or utilize a methodology based on, the *Correlation: U.S. Textile and Apparel Category System with the Harmonized Tariff Schedule of the United States of America,* U.S. Department of Commerce, Office of Textiles and Apparel (2007), or a successor document.

Unless the United States and Korea otherwise agree, these procedures implementing Annex 4–B of the Agreement shall cease to apply beginning on January 1 of the sixth calendar year in which the Agreement is in force.

In Proclamation No. 8783, (77 FR 14265, March 9, 2012), the President delegated to CITA his authority under the commercial availability provision to establish procedures for modifying the list of fibers, yarns, or fabrics not available in commercial quantities in a timely manner, as set out in Annex 4–B of the Agreement.

Pursuant to that delegation, CITA provides below its interim procedures governing the submission of requests under Section 203(o) in the Act. As of March 19, 2012, CITA intends to use these procedures to process requests for modifying the list of fibers, yarns, or fabrics not available in commercial quantities. CITA intends to publish its final procedures after considering any public comments received pursuant to its request for comments.

**Interim Procedures**

*1. Introduction*

The intent of these procedures is to foster the trade in U.S. and Korean textile and apparel articles by allowing non-originating fibers, yarns, and fabrics to be placed on or removed from a list of items not available in commercial quantities, on a timely basis, and in a manner that is consistent with normal business practice. To this end, these procedures are intended to facilitate the transmission, on a timely basis, of requests for commercial availability determinations and offers to supply the products that are the subject of the requests; have the market indicate the availability of the supply of the subject products; make available promptly, to interested entities and parties, information received regarding the requests for products and offers to supply; ensure wide participation by interested entities and parties; provide careful scrutiny of information provided to substantiate order requests and responses of offers to supply; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

*2. Definitions*

(a) *Commercial Availability Request.* A Request for a commercial availability determination submitted by an interested entity requesting that CITA place a fiber, yarn, or fabric on the Commercial Availability List in Appendix 4–B–1 of the Agreement because that fiber, yarn, or fabric is not available in commercial quantities in a timely manner from a U.S. supplier.

(b) *Commercial Availability List.* The list of products (fibers, yarns, and/or fabrics) contained in Appendix 4–B–1 of the Agreement that have been determined to be not commercially available from U.S. suppliers in commercial quantities in a timely manner.

(c) *Fiber, Yarn, or Fabric.* A single product or a range of products, which meet the same specifications provided in a submission, and which may be only part of a Harmonized Tariff Schedule of the United States (''HTSUS'') classification.

(d) *Interested Entity.* The government of Korea, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good. CITA recognizes that a legal or other representative may act on behalf of an interested entity. See Section 202(o)(3)(B)(i) of the Act.

(e) *Interested Party.* A person that requests to be included on the email notification list for commercial availability proceedings. Any person may become an interested party by contacting CITA either by sending an email to Otexa.KOREA@trade.gov, or through the Web site dedicated to commercial availability proceedings under the Agreement (''KOREA FTA Commercial Availability Web site'' or ''Web site''). The Web site is located on the U.S. Department of Commerce's Office of Textiles and Apparel Web site (www.otexa.ita.doc.gov), under ''Commercial Availability''/''Korea FTA.''

(f) *Official Receipt.* CITA's email confirmation that it has received both the email version and the original submission signed by the interested entity delivered via express courier.

(g) *Rebuttal Comment.* A submission from an interested entity providing information in response to evidence or arguments raised in a Response. A Rebuttal must be limited to evidence and arguments provided in a Response.

(h) *Request to Remove.* A submission from an interested entity requesting that CITA remove a product from the Appendix 4–B–1 list pursuant to Section 202(o)(3)(C)(iii) of the Act.

(i) *Requestor.* The interested entity that files, for CITA's consideration, a Commercial Availability Request or a Request to Remove under the commercial availability provision of the Act.

(j) *Response with an Offer to Supply.* A submission from an interested entity to CITA objecting to the Request and asserting its ability to supply the subject product by providing an offer to supply the subject product described in the Request.

(k) *U.S. Business Day.* Any calendar day other than a Saturday, Sunday, or a legal holiday observed by the Government of the United States. See section 202(o)(3)(B)(ii) of the Act.

(l) *U.S. Supplier.* A potential or actual manufacturer of a textile or apparel good in the United States.

*3. Submissions for Participation in a Commercial Availability Proceeding*

(a) *Filing a Submission.* All submissions for a commercial availability proceeding pursuant to these procedures (e.g., Commercial Availability Request, Response, Rebuttal, and Request to Remove) must be in English. If any attachments are in a language other than English, a complete translation must be provided. Each submission must be submitted to the Chairman of CITA, in care of the U.S. Department of Commerce's Office of Textiles and Apparel (''OTEXA'') in two forms: email and an original signed submission.

(1) An email version of the submission must be either in PDF or Word format, must contain an adequate public summary of any business confidential information and the due diligence certification, and should be sent to OTEXA.KOREA@trade.gov. The email version of the submission will be posted for public review on KOREA FTA Commercial Availability Web site. No business confidential information should be submitted in the email version of any document.

(2) The original signed submission must be sent via express courier to—Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Any business confidential information upon which an interested entity wishes CITA to rely must be included in the original signed submission. Except for the inclusion of business confidential information and corresponding public summary, the two versions of a submission should be identical.

(3) Brackets must be placed around all business confidential information contained in submissions. Documents containing business confidential information must have a bolded heading stating ''Confidential Version.'' Attachments considered business confidential information must have a heading stating ''Business Confidential Information.'' Documents, including those submitted via email, provided for public release must have a bolded heading stating ''Public Version'' and all the business confidential information must be deleted from public versions, and substituted with an adequate public summary.

(4) Generally, details such as quantities and lead times for providing the subject product can be treated as business confidential information. However, the names of suppliers who were contacted, general information about the capability to manufacture the subject product, and the responses thereto should be included in public versions.

(b) *Due Diligence Certification.* Each submission containing factual information for CITA's consideration must be accompanied by the appropriate certification regarding the accuracy of the factual information. An interested entity must file a certification of due diligence as described below in subsection (b)(1) with each electronic and original signed submissions that contains factual information. If the interested entity has legal counsel or other representative, the legal counsel or other representative must also file a certification of due diligence as described in subsection (b)(2) with each electronic and original signed submissions that contains factual information. Accurate representations of material facts submitted to CITA for the Commercial Availability Proceeding are vital to the integrity of this process and are necessary for CITA's effective administration of the statutory scheme. Each submission containing factual information for CITA's consideration must be accompanied by the appropriate certification regarding the accuracy of the factual information. Any submission that lacks the applicable certifications will be considered an incomplete submission that CITA will reject and return to the submitter. CITA may verify any factual information submitted by interested entities in a Commercial Availability Proceeding.

(1) For the person responsible for presentation of the factual information: I, (name and title), currently employed by (interested entity), certify that (1) I have read the attached submission, and (2) the information contained in this submission is, to the best of my knowledge, complete and accurate.

(2) For the person's legal counsel or other representative: I, (name), of (law

or other firm), counsel or representative to (interested entity), certify that (1) I have read the attached submission, and (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact.

(c) *Official Receipt.* A submission will be considered officially submitted to CITA only when both the email version and the original signed submission have been received by CITA. For Commercial Availability Requests, CITA will provide email confirmation to the requestor that both versions were received. CITA's email confirmation shall be considered the ''official receipt'' of the Request, which will begin the statutory 30 U.S. business day process for CITA's consideration. CITA will confirm official receipt of any Response and Rebuttal by posting the submissions on the KOREA FTA Commercial Availability Web site.

*4. Submitting a Request for Consideration in a Commercial Availability Proceeding.*

(a) *Commercial Availability Request.* An interested entity may submit a Request to CITA alleging that a fiber, yarn, or fabric is not available in commercial quantities in a timely manner from a U.S. supplier.

(b) *Contents of a Commercial Availability Request.*

(1) *Detailed Product Information.* The Commercial Availability Request must provide a detailed description of the subject product, including, if applicable, fiber content, construction, yarn size, and finishing processes; and the classification of the product under the HTSUS. All measurements in the entire submission must be stated in metric units. If the English count system is used in any part, then a conversion to metric units must be provided. The description must include reasonable product specifications, including, if applicable, fiber content, construction, yarn size, and finishing processes, as well as timelines and quantities. Reasonable product specifications include the use of accepted terminology and standards, such as those used by American Society for Testing and Materials (''ASTM'') or the American Association of Textile Chemists and Colorists (''AATCC'').

If any aspect of the Commercial Availability Request is outside the normal course of business (e.g., tight deadline, higher standards of performance, requirements to match existing specifications), requestors must provide U.S. suppliers with detailed explanations and measurable criteria for the specification or term at issue. In the course of its review of the Commercial Availability Request, CITA will consider record evidence to determine whether such specifications and terms are reasonable.

The requestor must clearly describe the unique characteristics of the subject product that distinguish it from other similar or potentially substitutable products. In addition, the requestor must also explain why such characteristics are required for the purposes of the end-use of the product and cannot be substituted by another product. However, all characteristics and specifications must be supported by measurable criteria.

(2) *Quantity.* The Commercial Availability Request must provide the specific quantity of the product needed by the requestor, in standard units of quantity for production of the subject product in the United States.

(3) *Due Diligence.* The Commercial Availability Request must provide a complete description of the due diligence undertaken by the requestor to determine the subject product's availability in the United States. Due diligence for the requestor means it has made reasonable efforts to obtain the subject product from U.S. suppliers.

(i) *Generally:* The requestor must provide the names and addresses of suppliers contacted, the name and position of the individuals specifically contacted, the exact request that was made, the dates of those contacts, whether a sample of the subject product was provided for review, and the exact response given for the supplier's inability to supply the subject product under the same conditions as contained in the Commercial Availability Request submitted to CITA, in addition to any other information the requestor believes is relevant. The requestor must submit copies or notes of relevant correspondence, both inquiries and responses, with these suppliers. Relevant correspondence includes notes of telephone conversations.

(ii) *Identification of U.S. suppliers:* Requestors must make reasonable efforts to identify U.S. suppliers. Requestors should identify U.S. suppliers through a number of means, including the requestor's knowledge of the industry, industry directories, and industry association memberships. For instance, an email from a requestor with a general inquiry to all manufacturers in the United States may not constitute due diligence. Rather, reasonable efforts must be taken to identify U.S. suppliers who are generally known to produce the class or type of product at issue. Requestors must provide an explanation in their Request as to why their efforts to identify U.S. suppliers were reasonable given the product at issue.

(iii) *Use of Third Parties and Business-to-Business Contact:* Due diligence includes substantive and direct contact, indicating a legitimate intent to do business, between requestors and U.S. suppliers. Third party communications are no substitute for meaningful dialogue between appropriate officials. Once interest is expressed between a requestor and a U.S. supplier, subsequent communications should be conducted by appropriate officials of the requestor and U.S. supplier based on normal business practice. A lack of appropriate business-to-business contact may be deemed to be insufficient due diligence.

(iv) *Description of the Subject Product:* In undertaking due diligence, requestors must provide a detailed description of the product to U.S. suppliers. The description must include reasonable product specifications, including, if applicable, fiber content, construction, yarn size, and may include a finishing process or operation, as well as timelines and quantities. Reasonable product specifications include the use of accepted terminology and standards, such as those used by ASTM or AATCC. If any aspect of the Request is outside the normal course of business (e.g., tight deadline, higher standards of performance, requirements to match existing specifications), requestors must provide U.S. suppliers with detailed explanations and measurable criteria for the specification or term at issue that would render such aspects as reasonable for the product in question. CITA will consider record evidence to determine whether such specifications and terms are reasonable.

(v) *Provision of Samples:* In undertaking its due diligence, a requestor must clearly communicate to U.S. suppliers its standard business practice with respect to the provision of samples. While requestors may request a sample, a U.S. supplier is not required to provide a sample under CITA's procedures. However, CITA notes that U.S. suppliers must meet certain requirements with respect to the provision of samples and/or information demonstrating their ability to supply the subject product in commercial quantities in a timely manner. See Section 6(b)(3) and Section 6(b)(4).

(vi) *Substitutability of Products:* In undertaking its due diligence, a requestor must clearly communicate information regarding the substitutability of the product in question to U.S. suppliers. In its inquiries to U.S. suppliers, the requestor

must clearly describe the unique characteristics of the subject product that distinguishes it from other similar or potentially substitutable products. In addition, the requestor must provide U.S. suppliers with information why such characteristics are required for the purposes of the end-use of the product and cannot be substituted by another product. However, all characteristics and specifications must be supported by measurable criteria. If, in the course of due diligence, a U.S. supplier proposes a substitutable product, the requestor must provide reasonable justifications to the U.S. supplier for rejecting potentially substitutable products.

(vii) *Treatment of Business Confidential Information:* Specific details of correspondence with suppliers, such as quantities and lead times for providing the subject product, can be treated as business confidential information. However, the names of U.S. suppliers who were contacted, what was asked generally about the capability to manufacture the subject product, and the responses thereto should be available for public review to ensure proper public participation in the process. ''Lead times'' refers to supplying the subject product within normal business time frames for the subject product once an order is received. Specific delivery dates are not necessary. Required delivery dates that fall within the time needed to complete the commercial availability determination process are not acceptable.

(4) *Substitutable Products.* The Commercial Availability Request must provide information on whether the requestor believes that other products supplied by the U.S. supplier are not substitutable in commercial quantities in a timely manner for the product(s) that is (are) the subject of the Request for purposes of the intended use. Clearly describe the unique characteristics of the subject product that distinguishes it from other similar or potentially substitutable products. Describe why such characteristics are required for the purposes of the end-use of the product and cannot be substituted by another product available from a U.S. supplier.

(5) *Additional Information.* The Commercial Availability Request may provide any additional evidence or information believed to be relevant for CITA to determine whether a fiber, yarn, or fabric is not available in commercial quantities in a timely manner from a supplier in the United States.

*5. Consideration and Acceptance of a Commercial Availability Request*

In considering whether to accept a Commercial Availability Request, CITA will consider and determine whether the Request provides all the required information specified in Sections 3 and 4 of these Interim Procedures. CITA will determine whether to accept the Request for consideration and investigation not later than two U.S. business days after the official receipt.

(a) *Request Rejected.* If CITA determines that the Commercial Availability Request does not contain the required information, the requestor will be notified promptly by email that the Request has not been accepted and the reasons for the rejection. A Commercial Availability Request may be resubmitted with additional information for the subject product and CITA will reevaluate it as a new Request.

(1) *Requests for Downstream Products with Inputs Not Commercially Available.* If, in its initial review of a Commercial Availability Request, CITA determines that a subject product would be commercially available but for the commercial unavailability of a certain input of the subject product, CITA will reject the Commercial Availability Request. The requestor may submit a Commercial Availability Request for the input in question rather than the downstream product.

(2) *Requests for Products with Prohibited Inputs, Specifications, and/or Processes.* If, in its initial review of a Commercial Availability Request, CITA determines that the subject product requires inputs, specifications, and/or processes that are prohibited under the laws and regulations of the United States, CITA will reject the Commercial Availability Request if there is a substitute product that does not require such prohibited inputs, specifications, or processes.

(b) *Request Accepted.* If CITA determines that the Commercial Availability Request contains the required information, CITA will notify interested parties by email that the Commercial Availability Request has been accepted and filed and will assign a File Number. CITA will post the accepted Commercial Availability Request on its Web site for public notice. The email notification and the Web site posting will indicate the calendar date deadlines for submitting Responses and Rebuttals.

*6. Submitting a Response With an Offer To Supply*

Responses must meet the requirements outlined in Section 3 of these Procedures. General comments in support of or opposition to a Request do not meet the requirements of a Response. A Due Diligence Certification must accompany a Response with an Offer to Supply.

(a) *Response with an Offer to Supply Submission.* An interested entity may file a response objecting to a Commercial Availability Request by providing an offer to supply the subject product as described in the Commercial Availability Request. An interested entity will have 10 U.S. business days after official receipt of a Request to submit a Response with an Offer to Supply. If good cause is shown, CITA may extend this deadline, but CITA will still meet the statutory deadlines.

(b) *Contents of a Response with an Offer to Supply.*

(1) *File Number.* The Response with an Offer to Supply must reference the CITA File Number assigned to the particular Request being addressed.

(2) *Quantity.* The Response with an Offer to Supply must contain the quantity of the subject product that the respondent is capable of currently supplying, in standard units of quantity. All measurements must be in metric units. If the English count system is used in any part, then a conversion to metric units must be provided.

(3) *Production Capability/ Demonstration of Ability to Supply.* A Response with an Offer to Supply must contain information, as described below, supporting the respondent's claim that it is able to supply the subject product, or a substitutable product, in commercial quantities in a timely manner.

(i) The Response with an Offer to Supply must report the quantity, in metric units, that the U.S. supplier produced of the subject product, or a substitutable product, in the preceding 24-month period.

(ii) For products that have experienced cyclical demand or are not currently produced, the U.S. supplier must indicate the quantity that has been supplied or offered commercially in the past, with an explanation of the reasons it is not currently produced or offered.

(iii) If the subject product involves a style, weight, or other variation that is new to the market or new to the U.S. supplier, then the supplier must provide detailed information on its current ability to make the subject product in commercial quantities in a timely manner. Such information could include current production capacity, current loom availability, and standard timetables to produce.

(iv) A U.S. supplier may support its claim to be able to produce the subject

product through provision of a sample meeting exactly the specifications as presented in the Commercial Availability Request. However, the provision of a sample is not required. Regardless of whether a sample is provided, a respondent must demonstrate its ability to produce the subject product by providing sufficient relevant information regarding its production capability. Such information could include past production of similar products and/or descriptions of equipment and identification of suppliers necessary to produce the subject product. If some operations, such as finishing, will be completed by other entities, the name of the facility and contact information must be provided.

(v) The Response with an Offer to Supply must include, as applicable, the rationale, supported by measurable criteria, for the U.S. supplier's assertion that other products that are supplied by the U.S. supplier in commercial quantities in a timely manner are substitutable for the subject product(s) for purposes of the intended use.

(vi) In its review of a Response with an Offer to Supply, CITA will consider whether the U.S. supplier was responsive to the efforts employed by the requestor to obtain the subject product in the course of due diligence. In the event that a U.S. supplier was not responsive, a U.S. supplier must provide a reasonable explanation in its Response with an Offer to Supply as to why it did not respond to earlier inquiries by the requestor in the course of due diligence. CITA will reject a Response with an Offer to Supply if it does not include such explanation.

(4) *Due Diligence.* The Response with an Offer to Supply must provide a complete description of the due diligence undertaken by the U.S. supplier to substantiate the ability to supply the subject product. If a U.S. supplier has participated in the requestor's undertaking of due diligence, the supplier must provide certain information in response to the requestor's inquiries.

(i) If a U.S. supplier has been responsive to a requestor in the undertaking of due diligence, the U.S. supplier must have stated its ability to supply or not supply the subject product. If the product can be supplied, the response to the inquiry must contain information supporting the U.S. supplier's claim to supply the subject product, or one substitutable, in commercial quantities in a timely manner.

(ii) If a U.S. supplier offers to supply the subject product, the supplier may support its offer by reporting the quantity, in metric units, that it has produced of the subject product, or a substitutable product, in the preceding 24-month period. If the U.S. supplier does not provide such information, it must explain why the information it has provided sufficiently supports its offer to supply.

(iii) In response to a requestor's inquiry, for products that have experienced cyclical demand or are not currently produced, the U.S. supplier must provide the requestor the quantity that has been supplied or offered commercially in the past, with an explanation of the reasons it is not currently produced or offered.

(iv) If the subject product involves a style, weight, or other variation that is new to the market or new to the U.S. supplier, then the supplier must provide detailed information on its current ability to make the subject product in commercial quantities in a timely manner. Such information could include current production capacity, current loom availability, and standard timetables to produce the subject product.

(v) A U.S. supplier may support its claim to be able to produce the subject product through provision of a sample meeting the specifications as presented in an inquiry. However, the provision of a sample is not required. Regardless of whether a sample is provided, the U.S. supplier must demonstrate its ability to produce the subject product by providing sufficient relevant information regarding their production capability. Such information could include past production of similar products and/or descriptions of equipment and identification of suppliers necessary to produce the subject product. If some operations, such as finishing, will be completed by other entities, the name of the facility and contact information must be provided.

(vi) A response to a requestor's inquiry must provide, as applicable, the basis for the U.S. supplier's rationale that other products that are supplied by the U.S. supplier in commercial quantities in a timely manner are substitutable for the subject product for purposes of the intended use, supported by measurable criteria.

(vii) Nothing in these procedures shall require any U.S. supplier to provide business confidential or other commercially sensitive information to a requestor. However, a U.S. supplier must provide the requestor a reasonable explanation why such information was not provided and why the information it has provided sufficiently supports its offer to supply.

(5) *Location of the U.S. supplier.* The Response with an Offer to Supply must provide the name, address, phone number, and email address of a contact person at the facility claimed to be able to supply the subject product.

*7. Submitting a Rebuttal Comment*

A Rebuttal Comment must meet the requirements outlined in Section 3 of these procedures. General comments in support of or opposition to a Commercial Availability Request or a Response do not meet the requirements of a Rebuttal Comment. A Due Diligence Certification must accompany a Rebuttal Comment.

(a) *Rebuttal Comment.* Any interested entity may submit a Rebuttal Comment. An interested entity must submit its Rebuttal Comment not later than 4 U.S. business days after the deadline for a Response. If good cause is shown, CITA may extend the time limit, but CITA will still meet the statutory deadlines.

(b) *Contents of a Rebuttal.* The Rebuttal Comment may respond only to evidence or arguments raised in a Response and must identify the Response, and evidence and/or arguments to which it is responding. The Rebuttal Comment must reference the CITA File Number assigned to the particular Commercial Availability Request being addressed.

*8. Determination Process*

(a) Not later than 30 U.S. business days after official receipt of a Commercial Availability Request (or not later than 60 U.S. business days where an extension is provided), CITA will notify interested entities by email and interested parties and the public by a posting on its Web site whether the subject product is available in commercial quantities in a timely manner in the United States and whether an interested entity has objected to the Commercial Availability Request.

(b) CITA will notify the public of the determination by publication in the **Federal Register** when the determination results in a change to the Commercial Availability List in Appendix 4–B–1 of the Agreement.

(c) *Types of Determinations.*

(1) *Approval:* An Approval means that CITA has determined that the subject product is not available in commercial quantities in a timely manner in the United States. If a Commercial Availability Request is approved, a notice will be published in the **Federal Register** adding the product to Appendix 4–B–1 of the Agreement.

(2) *Denial:* A denial means that CITA has determined that the subject product is available in commercial quantities in a timely manner in the United States. If a Commercial Availability Request is denied, notice of the denial will be posted on the KOREA FTA Commercial Availability Web site.

(i) *Denial of Requests for Downstream Products with Inputs Not Commercially Available:* If, during the course of its review of a Commercial Availability Request, CITA determines that the subject product is commercially available but for the commercial unavailability of a certain input of the subject product, CITA will deny the Commercial Availability Request. The requestor may submit a new Commercial Availability Request for the input in question rather than the downstream product.

(ii) *Denial of Requests for Products with Prohibited Inputs, Specifications, and/or Processes:* If, during the course of its review of a Commercial Availability Request, CITA determines that the subject product requires inputs, specifications, and/or processes that are prohibited under the laws and regulations of the United States, CITA will deny the Commercial Availability Request if there is a substitute product that does not require such prohibited inputs, specifications, or processes.

(3) *Insufficient Information to Determine:* CITA will extend its time period for consideration of the Commercial Availability Request by an additional 30 U.S. business days in the event that CITA determines, not later than 30 U.S. business days after official receipt of a Commercial Availability Request, that it has insufficient information to make a determination regarding the ability of a U.S. entity to supply the subject products of the Commercial Availability Request based on the submitted information. CITA will normally determine that it does not have sufficient information to make a determination on a Commercial Availability Request when CITA finds there is inconsistency in material information contained in the Commercial Availability Request, one or more Responses, and/or the Rebuttal Comment(s). CITA will notify interested parties via email that it has extended the time period for CITA's consideration by 30 U.S. business days. CITA also will announce the extension on the Web site.

(i) *Process during Extension Period:* During the extended time period, CITA will request that interested entities provide additional evidence to substantiate the information provided, and may initiate a meeting with interested entities. Such evidence may include, inter alia, product samples, lab tests, detailed descriptions of product facilities, and comparisons of product performance in the intended end-use of the subject product. Any samples, if requested, of fibers, yarns, or fabrics, that are provided to CITA will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. All written submissions must follow instructions described in Section 3 of these procedures. Samples should be identified with a cover sheet that describes the specifications of the sample and be identical to the specifications of the Commercial Availability Request. If CITA conducts a meeting, it will comply with requirements to conduct proceedings in an open manner.

(ii) CITA also will consider evidence in support of claims that U.S. supplier(s) can supply a substantially similar product to that specified in the Commercial Availability Request.

(iii) CITA will make a determination, not later than 60 U.S. business days after the official receipt of a Commercial Availability Request whether to approve or deny the Request and will follow the notification process accordingly.

(4) *Deemed Denial:* In the event that CITA does not make a determination in response to a Commercial Availability Request to add a product to Appendix 4–B–1 of the Agreement within the statutory deadlines provided, not later than 30 U.S. business days after the official receipt of the Commercial Availability Request or not later than 60 U.S. business days after the official receipt of the Commercial Availability Request that was determined to lack sufficient information pursuant to Section 8 of these procedures, the Request will be considered to be denied.

*9. Submitting a Request to Remove*

(a) *Request to Remove.* An interested entity may submit a request to remove a product from Appendix 4–B–1. See Section 202(o)(3)(E)(i) of the Act.

(b) *Content of a Request to Remove.* The Request to Remove must provide the substantive information set forth in Section 6(b) (Contents of a Response with an Offer to Supply) of these procedures.

(c) *Procedures.*

(1) In considering whether to accept a Request to Remove, CITA will follow procedures set forth in Section 5 (Consideration and Acceptance of a Request) of these procedures.

(2) If CITA determines to accept the Request to Remove, CITA and any responding interested entity shall follow applicable procedures and contents set forth in subsection 6(a) (Response with an Offer to Supply) and Section 7 (Submitting a Rebuttal Comment) of these procedures.

(3) As set forth in subsections 8(a) and (b) (Determination Process) of these procedures, CITA will determine whether the subject product of the Request to Remove is available in commercial quantities in a timely manner in the United States not later than 30 U.S. business days after the official receipt of the Request to Remove.

(i) If CITA determines that the product is available in commercial quantities in a timely manner in the United States, then that product will be removed from the Commercial Availability List in Appendix 4–B–1 of the Agreement. Removal of the product shall not take effect earlier than six months (i.e., 180 calendar days) after publication of notice in the **Federal Register** that CITA has determined that the product is available in commercial quantities in a timely manner in the United States.

(ii) If the Commercial Availability List changes as a result of CITA's determination for the Request to Remove, CITA will notify interested parties by email of its determination and will publish a notice of its determination for the Request to Remove in the **Federal Register**.

(d) For removal, the notice of determination will state that textile and apparel articles containing the subject product are not to be treated as originating in the United States if the subject product is obtained from sources outside the United States, effective for goods entered into the United States on or after six months (i.e., 180 calendar days) after the date of publication of the notice. See Section 202(o)(3)(E)(iii) of the Act.

**Request for Comment on the Interim Procedures**

Comments must be received no later than April 18, 2012 and in the following format:

(1) Comments must be in English.

(2) Comments must be submitted electronically or in hard copy, with original signatures.

(3) Comments submitted electronically, via email, must be either in PDF or Word format, and sent to the following email address *OTEXA.KOREA@trade.gov*. The email version of the comments must include an original electronic signature. Further, the comments must have a bolded heading stating ''Public Version'', and

no business confidential information may be included. The email version of the comments will be posted for public review on the KOREA FTA Commercial Availability Web site.

(4) Comments submitted in hard copy must include original signatures and must be mailed to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. All comments submitted in hard copy will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. on business days. In addition, comments submitted in hard copy will also be posted for public review on the KOREA FTA Commercial Availability Web site.

(5) Any business confidential information upon which an interested person wishes to rely may only be included in a hard copy version of the comments. Brackets must be placed around all business confidential information. Comments containing business confidential information must have a bolded heading stating ''Confidential Version.'' Attachments considered business confidential information must have a heading stating ''Business Confidential Information''. The Committee will protect from disclosure any business confidential information that is marked ''Business Confidential Information'' to the full extent permitted by law.

**Estimate of Burden to the Public for Collection of Information and Request for Public Comment**

In accordance with Section 203(o) of the Act and as reflected in the interim procedures for commercial availability proceedings, CITA must collect certain information about the technical specifications of a fiber, yarn, or fabric and the production capabilities of U.S. textile producers to determine whether certain fibers, yarns, or fabrics are available in commercial quantities in a timely manner in the United States. This information collection is subject to review and approval by the Office of Management and Budget's (''OMB'') OMB under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

OMB has approved under Control Number 0625–0270 the interim procedures requiring the collection of information under the emergency provisions of the PRA. In accordance with the PRA, CITA has estimated the ''burden'' (in number of hours) on the public to submit information required by CITA under its interim procedures. CITA hereby provides the public the opportunity to provide comment on its estimates of the burden on the public to submit information to CITA under the U.S.-Korea FTA Commercial Availability provision.

*Estimate of Burden as a Result of Information Collection:* Based on estimates on the number of Requests, Rebuttals and Responses filed per year, and the average amount of time required to submit a Request, Rebuttal, and Response, CITA estimates that the total annual burden to the public is 89 hours per year. A further breakdown of its estimates for the number of hours to collect and provide information to CITA for Requests, Responses and Rebuttals is provided in detail below.

*Requests:* CITA estimates that 10 Requests will be filed per year under the U.S.-Korea FTA Commercial Availability provision. Based on the following activities required to submit a Request, CITA estimates that the total time to collect and present information in a Request is 8 hours, for a total of 80 hours per year.

| Activity: Request | Time required |
|---|---|
| Due Diligence | 5 hours. |
| Summarizing Due Diligence and Preparing Request. | 2 hours. |
| Preparing Supporting Documentation. | 1 hour. |
| Total Time per Request | 8 hours. |
| Times 10 Requests per Year | 80 hours. |

*Responses:* CITA estimates that 3 Responses will be filed per year under the U.S.-Korea FTA Commercial Availability provision. Based on the following activities required to submit a Response, CITA estimates that the total time to collect and present information in a Response is 2 hours, for a total of 6 hours per year.

| Activity: Response | Time required |
|---|---|
| Preparing Response | 1.5 hours. |
| Preparing Supporting Documentation. | .5 hours. |
| Total Time per Request | 2 hours. |
| Times 3 Requests per Year | 6 hours. |

*Rebuttals:* CITA estimates that 3 Rebuttals will be filed per year. The average amount of time required to prepare each Rebuttal is estimated at 1 hour, for a total annual burden for all Rebuttals of 3 hours.

| Activity: Rebuttal | Time required |
|---|---|
| Preparing Rebuttal | 1 hour. |
| Total Time per Request | 1 hour. |
| Times 3 Requests per Year | 3 hour. |

Combined, these three information collections represent an annual burden of 89 hours. Copies of the above estimate can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th & Constitution Avenue, NW., Washington, DC 20230 or via e-mail at *JJessup@doc.gov*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

**Kimberly Glas,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 2012–6725 Filed 3–15–12; 4:15 pm]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Revised Non-Foreign Overseas Per Diem Rates; Correction

**AGENCY:** DoD, Per Diem, Travel and Transportation Allowance Committee.

**ACTION:** Notice of revised non-foreign overseas per diem rates; correction.

**SUMMARY:** On January 31, 2012 (77 FR 4788–4798), DoD published a notice titled Revised Non-Foreign Overseas Per Diem Rates. The table on pages 4789–4797, titled ''Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees'', published with incorrect lodging seasonal dates for some locations in Alaska. This notice corrects these errors. The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 279. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 279 is being published in the **Federal**

**Register** to assure that travelers are paid per diem at the most current rates.

**DATES:** *Effective Date:* February 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Sonia Malik, 571–372–1276.

**SUPPLEMENTARY INFORMATION:** This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 278. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows: The changes in Civilian Bulletin 279 are updated rates for Alaska.

**Correction**

In the notice (FR Doc. 2012–2042) published on January 31, 2012 (77 FR 4788–4798), the table on pages 4789–4797, titled ''Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees'', is being reprinted in its entirety, with the corrected lodging seasonal dates for some locations in Alaska.

Dated: March 14, 2012.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**BILLING CODE 5001–06–P**

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| **ALASKA** | | | | | | | |
| [OTHER] | | | | | | | |
| 01/01 | - 12/31 | 110 | | 105 | | 215 | 2/1/2012 |
| ADAK | | | | | | | |
| 01/01 | - 12/31 | 120 | | 79 | | 199 | 7/1/2003 |
| ANCHORAGE [INCL NAV RES] | | | | | | | |
| 05/16 | - 09/30 | 181 | | 104 | | 285 | 2/1/2012 |
| 10/01 | - 05/15 | 99 | | 96 | | 195 | 2/1/2012 |
| BARROW | | | | | | | |
| 01/01 | - 12/31 | 159 | | 95 | | 254 | 10/1/2002 |
| BETHEL | | | | | | | |
| 01/01 | - 12/31 | 157 | | 99 | | 256 | 7/1/2011 |
| BETTLES | | | | | | | |
| 01/01 | - 12/31 | 135 | | 62 | | 197 | 10/1/2004 |
| CLEAR AB | | | | | | | |
| 01/01 | - 12/31 | 90 | | 82 | | 172 | 10/1/2006 |
| COLDFOOT | | | | | | | |
| 01/01 | - 12/31 | 165 | | 70 | | 235 | 10/1/2006 |
| COPPER CENTER | | | | | | | |
| 09/16 | - 05/14 | 99 | | 95 | | 194 | 2/1/2012 |
| 05/15 | - 09/15 | 149 | | 99 | | 248 | 2/1/2012 |
| CORDOVA | | | | | | | |
| 01/01 | - 12/31 | 95 | | 109 | | 204 | 2/1/2012 |
| CRAIG | | | | | | | |
| 10/01 | - 04/30 | 99 | | 78 | | 177 | 11/1/2011 |
| 05/01 | - 09/30 | 129 | | 81 | | 210 | 11/1/2011 |
| DELTA JUNCTION | | | | | | | |
| 01/01 | - 12/31 | 129 | | 62 | | 191 | 2/1/2012 |
| DENALI NATIONAL PARK | | | | | | | |
| 05/01 | - 09/30 | 159 | | 101 | | 260 | 2/1/2012 |
| 10/01 | - 04/30 | 89 | | 94 | | 183 | 2/1/2012 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| DILLINGHAM | | | | | | |
| 05/15 - 10/15 | 185 | | 111 | | 296 | 1/1/2011 |
| 10/16 - 05/14 | 169 | | 109 | | 278 | 1/1/2011 |
| DUTCH HARBOR-UNALASKA | | | | | | |
| 01/01 - 12/31 | 121 | | 102 | | 223 | 2/1/2012 |
| EARECKSON AIR STATION | | | | | | |
| 01/01 - 12/31 | 90 | | 77 | | 167 | 6/1/2007 |
| EIELSON AFB | | | | | | |
| 09/16 - 05/14 | 75 | | 92 | | 167 | 2/1/2012 |
| 05/15 - 09/15 | 175 | | 102 | | 277 | 2/1/2012 |
| ELFIN COVE | | | | | | |
| 01/01 - 12/31 | 175 | | 46 | | 221 | 2/1/2012 |
| ELMENDORF AFB | | | | | | |
| 05/16 - 09/30 | 181 | | 104 | | 285 | 2/1/2012 |
| 10/01 - 05/15 | 99 | | 96 | | 195 | 2/1/2012 |
| FAIRBANKS | | | | | | |
| 05/15 - 09/15 | 175 | | 102 | | 277 | 2/1/2012 |
| 09/16 - 05/14 | 75 | | 92 | | 167 | 2/1/2012 |
| FOOTLOOSE | | | | | | |
| 01/01 - 12/31 | 175 | | 18 | | 193 | 10/1/2002 |
| FT. GREELY | | | | | | |
| 01/01 - 12/31 | 129 | | 62 | | 191 | 2/1/2012 |
| FT. RICHARDSON | | | | | | |
| 05/16 - 09/30 | 181 | | 104 | | 285 | 2/1/2012 |
| 10/01 - 05/15 | 99 | | 96 | | 195 | 2/1/2012 |
| FT. WAINWRIGHT | | | | | | |
| 05/15 - 09/15 | 175 | | 102 | | 277 | 2/1/2012 |
| 09/16 - 05/14 | 75 | | 92 | | 167 | 2/1/2012 |
| GAMBELL | | | | | | |
| 01/01 - 12/31 | 105 | | 39 | | 144 | 1/1/2011 |
| GLENNALLEN | | | | | | |
| 05/15 - 09/15 | 149 | | 99 | | 248 | 2/1/2012 |
| 09/16 - 05/14 | 99 | | 95 | | 194 | 2/1/2012 |
| HAINES | | | | | | |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| 01/01 | - 12/31 | 107 | | 101 | | 208 | 1/1/2011 |
| HEALY | | | | | | | |
| 10/01 | - 04/30 | 89 | | 94 | | 183 | 2/1/2012 |
| 05/01 | - 09/30 | 159 | | 101 | | 260 | 2/1/2012 |
| HOMER | | | | | | | |
| 05/05 | - 09/15 | 167 | | 117 | | 284 | 2/1/2012 |
| 09/16 | - 05/04 | 79 | | 108 | | 187 | 2/1/2012 |
| JUNEAU | | | | | | | |
| 05/16 | - 09/15 | 149 | | 104 | | 253 | 2/1/2012 |
| 09/16 | - 05/15 | 135 | | 103 | | 238 | 2/1/2012 |
| KAKTOVIK | | | | | | | |
| 01/01 | - 12/31 | 165 | | 86 | | 251 | 10/1/2002 |
| KAVIK CAMP | | | | | | | |
| 01/01 | - 12/31 | 150 | | 69 | | 219 | 10/1/2002 |
| KENAI-SOLDOTNA | | | | | | | |
| 09/01 | - 04/30 | 79 | | 92 | | 171 | 2/1/2012 |
| 05/01 | - 08/31 | 179 | | 102 | | 281 | 2/1/2012 |
| KENNICOTT | | | | | | | |
| 01/01 | - 12/31 | 175 | | 111 | | 286 | 2/1/2012 |
| KETCHIKAN | | | | | | | |
| 10/01 | - 04/30 | 99 | | 94 | | 193 | 2/1/2012 |
| 05/01 | - 09/30 | 140 | | 97 | | 237 | 2/1/2012 |
| KING SALMON | | | | | | | |
| 05/01 | - 10/01 | 225 | | 91 | | 316 | 10/1/2002 |
| 10/02 | - 04/30 | 125 | | 81 | | 206 | 10/1/2002 |
| KLAWOCK | | | | | | | |
| 05/01 | - 09/30 | 129 | | 81 | | 210 | 11/1/2011 |
| 10/01 | - 04/30 | 99 | | 78 | | 177 | 11/1/2011 |
| KODIAK | | | | | | | |
| 05/01 | - 09/30 | 152 | | 93 | | 245 | 2/1/2012 |
| 10/01 | - 04/30 | 100 | | 88 | | 188 | 2/1/2012 |
| KOTZEBUE | | | | | | | |
| 01/01 | - 12/31 | 219 | | 115 | | 334 | 2/1/2012 |
| KULIS AGS | | | | | | | |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| 05/16 | - 09/30 | 181 | | 104 | | 285 | 2/1/2012 |
| 10/01 | - 05/15 | 99 | | 96 | | 195 | 2/1/2012 |
| MCCARTHY | | | | | | | |
| 01/01 | - 12/31 | 175 | | 111 | | 286 | 2/1/2012 |
| MCGRATH | | | | | | | |
| 01/01 | - 12/31 | 165 | | 69 | | 234 | 10/1/2006 |
| MURPHY DOME | | | | | | | |
| 05/15 | - 09/15 | 175 | | 102 | | 277 | 2/1/2012 |
| 09/16 | - 05/14 | 75 | | 92 | | 167 | 2/1/2012 |
| NOME | | | | | | | |
| 01/01 | - 12/31 | 140 | | 132 | | 272 | 2/1/2012 |
| NUIQSUT | | | | | | | |
| 01/01 | - 12/31 | 180 | | 53 | | 233 | 10/1/2002 |
| PETERSBURG | | | | | | | |
| 01/01 | - 12/31 | 110 | | 105 | | 215 | 2/1/2012 |
| POINT HOPE | | | | | | | |
| 01/01 | - 12/31 | 200 | | 49 | | 249 | 1/1/2011 |
| POINT LAY | | | | | | | |
| 01/01 | - 12/31 | 225 | | 51 | | 276 | 8/1/2011 |
| PORT ALEXANDER | | | | | | | |
| 01/01 | - 12/31 | 150 | | 43 | | 193 | 8/1/2010 |
| PORT ALSWORTH | | | | | | | |
| 01/01 | - 12/31 | 135 | | 88 | | 223 | 10/1/2002 |
| PRUDHOE BAY | | | | | | | |
| 01/01 | - 12/31 | 170 | | 68 | | 238 | 1/1/2011 |
| SELDOVIA | | | | | | | |
| 05/05 | - 09/15 | 167 | | 117 | | 284 | 2/1/2012 |
| 09/16 | - 05/04 | 79 | | 108 | | 187 | 2/1/2012 |
| SEWARD | | | | | | | |
| 10/16 | - 04/30 | 85 | | 95 | | 180 | 2/1/2012 |
| 05/01 | - 10/15 | 172 | | 103 | | 275 | 2/1/2012 |
| SITKA-MT. EDGECUMBE | | | | | | | |
| 10/01 | - 04/30 | 99 | | 90 | | 189 | 2/1/2012 |
| 05/01 | - 09/30 | 119 | | 92 | | 211 | 2/1/2012 |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| SKAGWAY | | | | | | | |
| 05/01 | - 09/30 | 140 | | 97 | | 237 | 2/1/2012 |
| 10/01 | - 04/30 | 99 | | 94 | | 193 | 2/1/2012 |
| SLANA | | | | | | | |
| 05/01 | - 09/30 | 139 | | 55 | | 194 | 2/1/2005 |
| 10/01 | - 04/30 | 99 | | 55 | | 154 | 2/1/2005 |
| SPRUCE CAPE | | | | | | | |
| 10/01 | - 04/30 | 100 | | 88 | | 188 | 2/1/2012 |
| 05/01 | - 09/30 | 152 | | 93 | | 245 | 2/1/2012 |
| ST. GEORGE | | | | | | | |
| 01/01 | - 12/31 | 129 | | 55 | | 184 | 6/1/2004 |
| TALKEETNA | | | | | | | |
| 01/01 | - 12/31 | 100 | | 89 | | 189 | 10/1/2002 |
| TANANA | | | | | | | |
| 01/01 | - 12/31 | 140 | | 132 | | 272 | 2/1/2012 |
| TOK | | | | | | | |
| 05/15 | - 09/30 | 95 | | 89 | | 184 | 2/1/2012 |
| 10/01 | - 05/14 | 85 | | 88 | | 173 | 2/1/2012 |
| UMIAT | | | | | | | |
| 01/01 | - 12/31 | 350 | | 64 | | 414 | 2/1/2012 |
| VALDEZ | | | | | | | |
| 05/16 | - 09/14 | 159 | | 89 | | 248 | 2/1/2012 |
| 09/15 | - 05/15 | 119 | | 85 | | 204 | 2/1/2012 |
| WAINWRIGHT | | | | | | | |
| 01/01 | - 12/31 | 175 | | 83 | | 258 | 1/1/2011 |
| WASILLA | | | | | | | |
| 05/01 | - 09/30 | 153 | | 90 | | 243 | 2/1/2012 |
| 10/01 | - 04/30 | 89 | | 84 | | 173 | 2/1/2012 |
| WRANGELL | | | | | | | |
| 10/01 | - 04/30 | 99 | | 94 | | 193 | 2/1/2012 |
| 05/01 | - 09/30 | 140 | | 97 | | 237 | 2/1/2012 |
| YAKUTAT | | | | | | | |
| 01/01 | - 12/31 | 105 | | 94 | | 199 | 1/1/2011 |
| **AMERICAN SAMOA** | | | | | | | |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| AMERICAN SAMOA | | | | | | |
| 01/01 - 12/31 | 139 | | 122 | | 261 | 12/1/2010 |
| **GUAM** | | | | | | |
| GUAM (INCL ALL MIL INSTAL) | | | | | | |
| 01/01 - 12/31 | 159 | | 86 | | 245 | 7/1/2011 |
| **HAWAII** | | | | | | |
| [OTHER] | | | | | | |
| 01/01 - 12/31 | 104 | | 109 | | 213 | 7/1/2011 |
| CAMP H M SMITH | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| EASTPAC NAVAL COMP TELE AREA | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| FT. DERUSSEY | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| FT. SHAFTER | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| HICKAM AFB | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| HONOLULU | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| ISLE OF HAWAII: HILO | | | | | | |
| 01/01 - 12/31 | 104 | | 109 | | 213 | 7/1/2011 |
| ISLE OF HAWAII: OTHER | | | | | | |
| 01/01 - 12/31 | 180 | | 116 | | 296 | 7/1/2011 |
| ISLE OF KAUAI | | | | | | |
| 01/01 - 12/31 | 243 | | 127 | | 370 | 7/1/2011 |
| ISLE OF MAUI | | | | | | |
| 01/01 - 12/31 | 169 | | 120 | | 289 | 7/1/2011 |
| ISLE OF OAHU | | | | | | |
| 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| KEKAHA PACIFIC MISSILE RANGE FAC | | | | | | |
| 01/01 - 12/31 | 243 | | 127 | | 370 | 7/1/2011 |
| KILAUEA MILITARY CAMP | | | | | | |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| | 01/01 - 12/31 | 104 | | 109 | | 213 | 7/1/2011 |
| LANAI | | | | | | | |
| | 01/01 - 12/31 | 249 | | 145 | | 394 | 7/1/2011 |
| LUALUALEI NAVAL MAGAZINE | | | | | | | |
| | 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| MCB HAWAII | | | | | | | |
| | 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| MOLOKAI | | | | | | | |
| | 01/01 - 12/31 | 131 | | 97 | | 228 | 7/1/2011 |
| NAS BARBERS POINT | | | | | | | |
| | 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| PEARL HARBOR | | | | | | | |
| | 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| SCHOFIELD BARRACKS | | | | | | | |
| | 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| WHEELER ARMY AIRFIELD | | | | | | | |
| | 01/01 - 12/31 | 177 | | 116 | | 293 | 7/1/2011 |
| **MIDWAY ISLANDS** | | | | | | | |
| MIDWAY ISLANDS | | | | | | | |
| | 01/01 - 12/31 | 125 | | 62 | | 187 | 7/1/2011 |
| **NORTHERN MARIANA ISLANDS** | | | | | | | |
| [OTHER] | | | | | | | |
| | 01/01 - 12/31 | 55 | | 72 | | 127 | 10/1/2002 |
| ROTA | | | | | | | |
| | 01/01 - 12/31 | 130 | | 93 | | 223 | 7/1/2011 |
| SAIPAN | | | | | | | |
| | 01/01 - 12/31 | 121 | | 94 | | 215 | 7/1/2011 |
| TINIAN | | | | | | | |
| | 01/01 - 12/31 | 85 | | 74 | | 159 | 7/1/2011 |
| **PUERTO RICO** | | | | | | | |
| [OTHER] | | | | | | | |
| | 01/01 - 12/31 | 62 | | 57 | | 119 | 10/1/2002 |
| AGUADILLA | | | | | | | |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| | 01/01 - 12/31 | 124 | | 113 | | 237 | 9/1/2010 |
| BAYAMON | | | | | | | |
| | 01/01 - 12/31 | 195 | | 128 | | 323 | 9/1/2010 |
| CAROLINA | | | | | | | |
| | 01/01 - 12/31 | 195 | | 128 | | 323 | 9/1/2010 |
| CEIBA | | | | | | | |
| | 01/01 - 12/31 | 210 | | 141 | | 351 | 11/1/2010 |
| CULEBRA | | | | | | | |
| | 01/01 - 12/31 | 150 | | 98 | | 248 | 3/1/2012 |
| FAJARDO [INCL ROOSEVELT RDS NAVSTAT] | | | | | | | |
| | 01/01 - 12/31 | 210 | | 141 | | 351 | 11/1/2010 |
| FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO] | | | | | | | |
| | 01/01 - 12/31 | 195 | | 128 | | 323 | 9/1/2010 |
| HUMACAO | | | | | | | |
| | 01/01 - 12/31 | 210 | | 141 | | 351 | 11/1/2010 |
| LUIS MUNOZ MARIN IAP AGS | | | | | | | |
| | 01/01 - 12/31 | 195 | | 128 | | 323 | 9/1/2010 |
| LUQUILLO | | | | | | | |
| | 01/01 - 12/31 | 210 | | 141 | | 351 | 11/1/2010 |
| MAYAGUEZ | | | | | | | |
| | 01/01 - 12/31 | 109 | | 112 | | 221 | 9/1/2010 |
| PONCE | | | | | | | |
| | 01/01 - 12/31 | 149 | | 87 | | 236 | 9/1/2010 |
| SABANA SECA [INCL ALL MILITARY] | | | | | | | |
| | 01/01 - 12/31 | 195 | | 128 | | 323 | 9/1/2010 |
| SAN JUAN & NAV RES STA | | | | | | | |
| | 01/01 - 12/31 | 195 | | 128 | | 323 | 9/1/2010 |
| VIEQUES | | | | | | | |
| | 01/01 - 12/31 | 175 | | 95 | | 270 | 3/1/2012 |
| **VIRGIN ISLANDS (U.S.)** | | | | | | | |
| ST. CROIX | | | | | | | |
| | 04/15 - 12/14 | 135 | | 92 | | 227 | 5/1/2006 |
| | 12/15 - 04/14 | 187 | | 97 | | 284 | 5/1/2006 |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|---|
| ST. JOHN | | | | | | | |
| 04/15 | - 12/14 | 163 | | 98 | | 261 | 5/1/2006 |
| 12/15 | - 04/14 | 220 | | 104 | | 324 | 5/1/2006 |
| ST. THOMAS | | | | | | | |
| 04/15 | - 12/14 | 240 | | 105 | | 345 | 5/1/2006 |
| 12/15 | - 04/14 | 299 | | 111 | | 410 | 5/1/2006 |
| **WAKE ISLAND** | | | | | | | |
| WAKE ISLAND | | | | | | | |
| 01/01 | - 12/31 | 145 | | 42 | | 187 | 7/1/2011 |



[FR Doc. 2012–6552 Filed 3–16–12; 8:45 am]

**BILLING CODE 5001–06–C**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

**[Docket ID: USAF–2012–0008]**

### Privacy Act of 1974; System of Records

**AGENCY:** U.S. Central Command (CENTCOM), DoD.

**ACTION:** Notice To Add a System of Records.

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

**DATES:** This proposed action will be effective on May 18, 2012. unless comments are received which result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Evlyn Hearne, USCENTCOM CCJ6–RDF, 7115 South Boundary Blvd., MacDill AFB, FL 33621–5101 or at (813) 529–3027.

**SUPPLEMENTARY INFORMATION:** The U.S. Central Command notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT.** The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on March 13, 2012 to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 13, 2012.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**FCENTCOM 04**

**SYSTEM NAME:**

Total Records Information Management System (TRIM)

**SYSTEM LOCATION:**

Headquarters, United States Central Command (USCENTCOM), CCJ6–RD, 7115 South Boundary Boulevard, MacDill Air Force Base, FL 33621–5101.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Active duty military, retired military, contractors employed by USCENTCOM, Department of Defense civilians, Department of Defense retired civilians, Active and Retired military family members verified in the Defense Eligibility Enrollment Reporting System (DEERS), Individual Ready Reserve, Non-Appropriated Funds civilians, National Guard, National Guard retired personnel, Reserve personnel, Non-US citizens including military and civilian personnel, and individuals who are the subject of records in the system.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system encompasses a variety of records pertaining to all USCENTCOM and DoD functionality; individual name, Social Security Number (SSN), DoD ID Number, address, user account information that contains data such as names, usernames, unit assignments, locations, office symbols, telephone numbers, email addresses, and user roles; and also including information in the following categories:

**PERSONNEL:**

Records concerning military and DoD civilian personnel as they relate to general personnel data of member, his or her dependents, such as insurance, voting, citizenship, and handling responsibility for personal property. Records concerning methods and procedures for identifying skills and abilities of military personnel, testing, and awarding military occupational specialties for use in assignment to related duties and jobs. Also covered are records on appointment of officer personnel, enlistment and re-enlistment of enlisted personnel, recruiting activities, and other matters relating to military personnel at USCENTCOM.

**SECURITY:**

Records concerning identification, classification, downgrading, declassification, dissemination, and protection of defense information, storage and destruction of classified matter, industrial security, investigations involving compromise of classified information, access to classified data, and other matters pertaining to security; records covering the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs and records concerning responsibilities, policies, functions, and procedures pertaining to security assistance.

**INFORMATION MANAGEMENT:**

Records concerning planning, policies, procedures, architectures, and responsibilities pertaining to information management; life cycle management of information systems; and records pertaining to all five Information Mission Area disciplines (communications, automation, records management, visual information, and publications and printing); records concerning policy, direction, planning, testing, and operation of communications and electronics systems, such as radio, telephone, teletypewriter, and radar.

**MEDICAL SERVICES:**

Composition, mission, responsibilities and functions of the USCENTCOM Medical Department and its related corps, administration and operation of USCENTCOM medical treatment facilities, medical, dental, and veterinary care, and medical, dental, and veterinary equipment and supplies. Logistics: These records concern logistics policies, procedures, and support covering supplies, equipment, and facilities in several different logistical areas.

Administration: Administrative functions, such as control of office space, visits, attendance at meetings and conferences, gifts and donations, memorialization proceedings, and other support functions not specifically provided for in other series.

**EMERGENCY AND SAFETY:**

Actions involved in preparing for war or emergencies; bringing USCENTCOM to a state of readiness; assembling and organizing personnel, supplies, and other resources for active military service. USCENTCOM participation and support in matters of civil disturbance, disaster relief, and civil defense and emergency action; records concern administration of USCENTCOM safety program, which is directed toward accident prevention USCENTCOM-

wide. Program responsibilities include conducting studies and surveys to determine unsafe practices and conditions. Also covers records on nuclear accidents and incidents.

Legal Services: Judiciary boards and proceedings, decisions, opinions, and policies applicable to civil law and military affairs, international, foreign, procurement, and contract law, legal assistance for military personnel and their dependents, policies and procedures relative to patents, inventions, taxation, and land litigation involving USCENTCOM, trials by courts-martial, including pretrial, trial, and post-trial procedures, nonjudicial punishment, investigation, processing, settlement, and payment of claims against or on behalf of the Government when USCENTCOM is involved.

**FINANCIAL AUDIT:**

Policies, procedures, direction, and supervision of financial functions, including budgeting, accounting, funding, entitlement, pay, expenditures, USCENTCOM Management Structure and fiscal code, and related reporting. Records concerning authority, responsibilities, organization, and policies relating to auditing service in USCENTCOM, action requested on USCENTCOM Audit Agency reports, and audit procedures for non-appropriated and similar funds.

Quality Assurance and Quality Control: Environmental management records, including programs, policies, instructions, and activities; matters affecting the quality of the environment, such as impact on the atmosphere, natural resources, water, and the community.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 5013, Secretary of the Navy; 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3301–3314, the Federal Records Act; E.O. 13526, Classified National Security Information Memorandum; DoDD 5015.2, DoD Records Management Program; 5760.01A, Vol I, Joint Staff and Combatant Command Records Management Manual; CENTCOM Regulation 25–50, Records Management Policy; and E.O. 9397 (SSN), as amended.

**PURPOSE(S):**

To manage and archive the long-term and permanent records providing core information technology to records management support programs.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' apply to this system.

**Note:** This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

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

**STORAGE:**

Paper records and electronic storage media.

**RETRIEVABILITY:**

By individual's name, Social Security Number (SSN), subject matter, or title of record.

**SAFEGUARDS:**

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need to know. Access to computerized data is restricted by passwords; users must have a common access card (CAC) to access the data.

**RETENTION AND DISPOSAL:**

Data stored digitally within the system is retained until access is no longer required. Backup (paper) files are maintained only for system restoration and are not used to retrieve individual records. Computer records are destroyed by erasing, deleting or overwriting. Records are destroyed by shredding, pulping, macerating or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Headquarters, United States Central Command (USCENTCOM), CCJ6–RD, 7115 South Boundary Boulevard, MacDill AFB, FL 33621–5101.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Headquarters, United States Central Command (USCENTCOM), CCJ6–RD, 7115 South Boundary Boulevard, MacDill AFB, FL 33621–5101.

For verification purpose, written requests must include individual's full name, any details which may assist in locating records and their signature. The individual should also reasonably specify the record contents being sought.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Headquarters, United States Central Command (USCENTCOM), CCJ6–RD, 7115 South Boundary Boulevard, MacDill AFB, FL 33621–5101.

For verification purpose, written requests must include individual's full name, any details which may assist in locating records and their signature. The individual should also reasonably specify the record contents being sought.

**CONTESTING RECORD PROCEDURES:**

The USCENTCOM rules for assessing records, for contesting and appealing initial agency determinations may be obtained from Headquarters, United States Central Command (USCENTCOM), CCJ6–RD, ATTN: Freedom of Information and Privacy, 7115 South Boundary Boulevard, MacDill AFB, FL 33621–5105.

**RECORD SOURCE CATEGORIES:**

Information is obtained from individuals and other Federal, state and local agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

During the course of records management, exempt records from other systems of records may become part of this system. To the extent that exempt records from those other systems of records are entered into this system, the USCENTCOM hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original system of records which they are a part.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3); and 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 2012–6488 Filed 3–16–12; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

**RIN 0710–AA71**

### Reissuance of Nationwide Permits

**AGENCY:** Army Corps of Engineers, DoD.

**ACTION:** Final notice; correction.

**SUMMARY:** The U.S. Army Corps of Engineers published a document in the **Federal Register** of February 21, 2012, concerning the reissuance of nationwide permits. This document contains corrections to that final notice.

**ADDRESSES:** U.S. Army Corps of Engineers, Attn: CECW–CO–R, 441 G Street NW., Washington, DC 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson at 202–761–4922 or by email at *david.b.olson@usace.army.mil* or access the U.S. Army Corps of Engineers Regulatory Home Page at *http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx*.

**Corrections**

In the **Federal Register** of February 21, 2012, in FR Doc. 2012–3687, the following corrections are made:

On page 10191, first column, correct the last sentence of the third full paragraph to read as follows: ''States and Tribes will have 60 days to make their water quality certification decisions.''

On page 10211, third column, correct the second sentence of the second full paragraph to read as follows: ''Under paragraph (b), we estimate that NWP 21 will be used approximately 47 times per year, although more activities may qualify for NWP 21 authorization if project proponents do additional avoidance and minimization to reduce losses of waters of the United States to satisfy the acreage and linear foot limits.''

On page 10281, third column, correct the first sentence of Note 1 to read as follows: ''Utility lines constructed to transfer the energy from the land-based renewable generation facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and each separate and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project.''

On page 10282, second column, correct the first sentence of Note 1 to read as follows: ''Utility lines constructed to transfer the energy from the land-based collection facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and each separate and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project.''

Dated: March 12, 2012.

**Richard C. Lockwood,**

*Chief, Operations and Regulatory Directorate of Civil Works.*

[FR Doc. 2012–6555 Filed 3–16–12; 8:45 am]

**BILLING CODE 3720–52–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Nevada

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Wednesday, April 11, 2012, 5 p.m.

**ADDRESSES:** International Association of Firefighters, Local 4068, 160 West Emery Street, Pahrump, Nevada 89048.

**FOR FURTHER INFORMATION CONTACT:** Denise Rupp, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *nssab@nv.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

**Tentative Agenda**

1. Emergency Preparedness Working Group Update.

2. Industrial Sites—Long-Term Monitoring at Closed Sites.

*Public Participation:* The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Denise Rupp at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Denise Rupp at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

*Minutes:* Minutes will be available by writing to Denise Rupp at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx.*

Issued at Washington, DC, on March 14, 2012.

**LaTanya R. Butler,**

*Acting Deputy Committee Management Officer.*

[FR Doc. 2012–6548 Filed 3–16–12; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Portsmouth

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Thursday, April 5, 2012, 6 p.m.

**ADDRESSES:** Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

**FOR FURTHER INFORMATION CONTACT:** Joel Bradburne, Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3822, *Joel.Bradburne@lex.doe.gov.*

**SUPPLEMENTARY INFORMATION:** *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

**Tentative Agenda**

- Call to Order, Introductions, Review of Agenda
- Approval of March Minutes
- Deputy Designated Federal Officer's Comments

- Liaisons' Comments
- Presentations:
  - Portsmouth Future Vision, Greg Simonton, DOE Federal Coordinator
  - Development Planning, Fluor-B&W
- Administrative Issues
- Subcommittee Updates
- Public Comments
- Final Comments from the Board
- Adjourn

*Public Participation:* The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Joel Bradburne at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Joel Bradburne at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

*Minutes:* Minutes will be available by writing or calling Joel Bradburne at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC, on March 14, 2012.

**LaTanya R. Butler,**

*Acting Deputy Committee Management Officer.*

[FR Doc. 2012–6549 Filed 3–16–12; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Agency Information Collection Extension

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

**ACTION:** Submission for Office of Management and Budget (OMB) review; comment request.

**SUMMARY:** The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Better Buildings, Better Plants Program Voluntary Pledge Program, OMB Control Number 1910–5141. The proposed collection will be used to evaluate the success of the voluntary agreements made through the DOE's Better Buildings, Better Plants Program. The information to be collected from Partner plants includes: background data, including contact information, information on primary energy consumption and energy saving, high level descriptions of implemented energy projects, and annual and cumulative energy intensity progress. The results of the Better Buildings, Better Plants Voluntary Pledge Report will only be published in program evaluation and metrics documentation. Results will be published in aggregate to report the impact of the DOE program in a report that must be submitted to Congress in 2012 and 2017.

**DATES:** Comments regarding this collection must be received on or before April 18, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4650.

**ADDRESSES:** Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503; and to Andre de Fontaine, EE–2F/Forrestal Building, 1000 Independence Avenue SW., 20585 or by fax at (202) 586–5234 or by email at *andre.defontaine@EE.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Andre de Fontaine, EE–2F/Forrestal Building, 1000 Independence Avenue SW., 20585 or by fax at (202) 586–5234 or by email at *andre.defontaine@EE.doe.gov.*

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

(1) *OMB No.:* 1910–5141;

(2) *Information Collection Request Title:* Better Buildings, Better Plants Program Voluntary Pledge Program;

(3) *Type of Review:* Renewal;

(4) *Purpose:* The information being collected is needed to evaluate the success of the voluntary agreements made through the Department of Energy's (DOE) Better Buildings, Better Plants (BBBP) Program. The BBBP Program is a voluntary initiative, created to support congress's Energy Policy Act of 2005, as amended, section 106, for any company interested in reducing their energy intensity by 25 percent or more in ten years. The program is specifically designed to encourage and recognize United States companies that are in the vanguard of energy efficiency and will lead all industrial facilities by establishing and achieving ambitious energy goals. All companies participating in the program will receive technical support from DOE, and companies achieving the program's energy goals will also receive national recognition for their accomplishments. The information to be collected from Partner plants includes: background data, including contact information, information on primary energy consumption and energy saving, high level descriptions of implemented energy projects, and annual and cumulative energy intensity progress. The results of the Better Buildings, Better Plants Voluntary Pledge Report will only be published in program evaluation and metrics documentation. Results will be published in aggregate to report the impact of the DOE program in a report that must be submitted to Congress in 2012 and 2017.

(5) *Annual Estimated Number of Respondents:* 175;

(6) *Annual Estimated Number of Total Responses:* 175;

(7) *Annual Estimated Number of Burden Hours:* 2,710;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

**Statutory Authority:** Section 106 of the Energy Policy Act of 2005, as amended, codified at 42 U.S.C. 15811.

Issued in Washington, DC, on March 13, 2012.

**Leo Christodoulou,**

*Program Manager, Office of Advanced Manufacturing Program, Office of Energy Efficiency and Renewable Energy.*

[FR Doc. 2012–6546 Filed 3–16–12; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13287–004]**

### New York City Department of Environmental Protection; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

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

a. *Type of Application:* Major project, existing dam.

b. *Project No.:* 13287–004.

c. *Date filed:* February 29, 2012.

d. *Applicant:* New York City Department of Environmental Protection.

e. *Name of Project:* Cannonsville Hydroelectric Project.

f. *Location:* On the West Branch of the Delaware River, near the Township of Deposit, Delaware County, New York. The project does not occupy any Federal lands.

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

h. *Applicant Contact:* Anthony J. Fiore, Chief of Staff—Operations, New York City Department of Environmental Protection, 59–17 Junction Blvd., Flushing, NY 11373–5108, (718) 595–6529 or *afiore@dep.nyc.gov*.

i. *FERC Contact:* John Mudre, (202) 502–8902 or *john.mudre@ferc.gov.*

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

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

l. *Deadline for filing additional study requests and requests for cooperating agency status:* April 29, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, 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.

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

n. *Project facilities would include:* (1) An existing 2,800-foot-long, 45-foot-wide earthen embankment dam with a crest elevation of 1,175.0 feet above mean sea level; (2) an existing 800-foot-long stone masonry spillway; (3) an existing 12-mile-long, 4,670-acre impoundment (Cannonsville Reservoir); (4) four proposed penstocks branching from an existing 12-foot-diameter intake; (5) a proposed 168-foot-long by 54-foot-wide powerhouse containing four horizontal shaft Francis generating units; (6) a proposed tailrace occupying approximately one acre; (7) a proposed transmission system consisting of a 150-foot-long underground and 1,200-foot-long overhead 12.47-kilovolt (kV) line, a substation, and a 460-foot-long overhead 46–kV line; and (8) appurtenant facilities. The project would have a total installed capacity of 14.08 megawatts and would generate approximately 42,281 megawatt-hours of electricity annually.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

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

p. With this notice, we are initiating consultation with the New York State Historic Preservation Officer (SHPO), as required by section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

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

Issue Notice of Acceptance March 2012.

Issue Scoping Document 1 for comments May 2012.

Scoping Meetings and environmental site review June 2012.

Comments on Scoping Document 1 due July 2012.

Issue Scoping Document 2 (if needed) August 2012.

Issue Additional Information Request (if needed) August 2012.

Issue notice of ready for environmental analysis September 2012.

Commission issues EA January 2013.

Comments on EA due February 2013.

Commission issues final EA (if needed) May 2013.

Dated: March 13, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–6525 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13806–001]**

### 5440 Hydro, Inc.: Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 13806–001.

c. *Date Filed:* January 17, 2012.

d. Submitted By: 5440 Hydro, Inc.

e. *Name of Project:* Brooklyn Dam Hydroelectric Project.

f. *Location:* On the Upper Ammonoosuc River, near the Town of Groveton in Coos County, New Hampshire. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Lutz Loegters, 5440 Hydro, Inc., 717 Atlantic Avenue, Suite 1A, Boston, MA 02111; 617–933–7200; email at *lutz@ampersandenergy.com*.

i. *FERC Contact:* John Ramer at (202) 502–8969; or email at *john.ramer@ferc.gov*.

j. 5440 Hydro, Inc. filed its request to use the Traditional Licensing Process on January 17, 2012. 5440 Hydro, Inc. provided public notice of its request on January 17, 2012. In a letter dated March 13, 2012, the Acting Director of the Division of Hydropower Licensing approved 5440 Hydro, Inc.'s request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the New Hampshire State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. 5440 Hydro, Inc. filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD 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. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. 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.

Dated: March 13, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–6523 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC12–79–000.

*Applicants:* The Hartford Steam Company.

*Description:* Section 203 Application of The Hartford Steam Company.

*Filed Date:* 3/12/12.

*Accession Number:* 20120312–5179.

*Comments Due:* 5 p.m. ET 4/2/12.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER91–569–049; ER10–1642–002; ER10–1541–001.

*Applicants:* Entergy Services, Inc., EWO Marketing, Inc., Entergy Power, LLC.

*Description:* On December 2, 2011 and December 19, 2011, Entergy Services, Inc. et al. filed Supplemental Information.

*Filed Date:* 12/2/11; 12/19/11.

*Accession Number:* 20111202–5184; 20111219–5226.

*Comments Due:* 5 p.m. ET 3/22/12.

*Docket Numbers:* ER12–1242–000.

*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.

*Description:* Technical Improvements Relating to Automated Mitigation to be effective 12/31/9998.

*Filed Date:* 3/12/12.

*Accession Number:* 20120312–5107.

*Comments Due:* 5 p.m. ET 4/2/12.

*Docket Numbers:* ER12–1243–000.

*Applicants:* PJM Interconnection, L.L.C., Commonwealth Edison Company.

*Description:* ComEd submits PJM Service Agreement No. 3266 Between ComEd and Ameren to be effective 3/13/2012.

*Filed Date:* 3/12/12.

*Accession Number:* 20120312–5114.

*Comments Due:* 5 p.m. ET 4/2/12.

Take notice that the Commission received the following public utility holding company filings:

*Docket Numbers:* PH12–8–000.

*Applicants:* ArcLight Capital Holdings, LLC.

*Description:* Notice of Change in Facts of ArcLight Capital Holdings, LLC.

*Filed Date:* 3/12/12.

*Accession Number:* 20120312–5090.

*Comments Due:* 5 p.m. ET 4/2/12.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF12–266–000.

*Applicants:* Roseburg Forest Products Company.

*Description:* Roseburg Forest Products Company submits FERC Form 556 Notice of Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5200.

*Comment Date:* None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 12, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6513 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC12–78–000.

*Applicants:* Algonquin Power Fund (America) Inc., Pocahontas Prairie Wind, LLC, Sandy Ridge Wind, LLC.

*Description:* Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Sandy Ridge Wind, LLC, *et al.*

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5204.

*Comments Due:* 5 p.m. ET 3/30/12.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER00–3080–007.

*Applicants:* Otter Tail Power Company.

*Description:* Otter Tail Power Company submits corrections to its December 30, 2011 filing of its updated market power analysis to make wholesale power sales at market-based rates.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5197.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER10–1414–001; ER11–1881–003; ER10–3166–001; ER11–1890–003; ER01–138–009; ER11–1882–003; ER10–1406–002; ER11–1883–003; ER11–1885–003; ER10–1416–002; ER11–1892–003; ER11–1886–003; ER11–1893–003; ER11–1887–003; ER11–1889–003; ER11–1894–003; ER10–1345–003; ER10–1343–003; ER10–1346–002; ER10–1348–002; ER11–2534–002.

*Applicants:* Burley Butte Wind Park, LLC, Cadillac Renewable Energy LLC, Camp Reed Wind Park, LLC, CPI Energy Services (US) LLC, CPIDC, Inc., Delta Person Limited Partnership, Frederickson Power L.P., Golden Valley Wind Park, LLC, Lake Cogen Ltd., ManChief Power Company LLC, Milner Dam Wind Park, LLC, Morris Cogeneration, LLC, Oregon Trail Wind Park, LLC, Pasco Cogen, Ltd., Payne's Ferry Wind Park, LLC, Pilgrim Stage Station Wind Park, LLC, Salmon Falls Wind Park, LLC, Thousand Springs Wind Park, LLC, Tuana Gulch Wind Park, LLC, Yahoo Creek Wind Park, LLC, Auburndale Power Partners, Limited Partners, L.P.

*Description:* Supplement to Notice of Non-Material Change of Status of Auburndale Power Partners, L.P., *et al.*

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5198.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER10–1459–003.

*Applicants:* FirstEnergy Solutions Corp.

*Description:* Second Revised Affiliate Sales Tariff to be effective 6/1/2012.

*Filed Date:* 3/8/12.

*Accession Number:* 20120308–5134.

*Comments Due:* 5 p.m. ET 3/29/12.

*Docket Numbers:* ER12–539–003.

*Applicants:* Atlantic Power Energy Services (US) LLC.

*Description:* Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5135.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–540–003.

*Applicants:* APDC, Inc.

*Description:* Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5131.

Comments Due: 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–541–001.

*Applicants:* Frederickson Power L.P.

*Description:* Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.

*Filed Date:* 3/9/12

*Accession Number:* 20120309–5145.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–544–001.

*Applicants:* Morris Cogeneration, LLC.

*Description:* Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5154.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–546–001.

*Applicants:* Pasco Cogen, Ltd.

*Description:* Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5127.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–1215–001.

*Applicants:* New York Independent System Operator, Inc.

*Description:* NYISO Amendment to Correct DAMAP Filing to be effective 3/7/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5166.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–1238–000.

*Applicants:* Broken Bow Wind, LLC

*Description:* Petition of Broken Bow Wind, LLC for Order Accepting Market-Based Rate Tariff to be effective 5/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5132.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–1239–000.

*Applicants:* Crofton Bluffs Wind, LLC.

*Description:* Crofton Bluffs Wind, LLC Petition for Market-Based Rates to be effective 5/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5134.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–1240–000.

*Applicants:* Nevada Power Company.

*Description:* Rate Schedule No. 124 ORNI 39 McGinness Hills Related PPA to be effective 4/8/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5150.

*Comments Due:* 5 p.m. ET 3/30/12.

*Docket Numbers:* ER12–1241–000.

*Applicants:* Alabama Power Company.

*Description:* PowerSouth NITSA Amendment (Add McVay-Scyrene Temporary Delivery Point) to be effective 3/1/2012.

*Filed Date:* 3/9/12.

*Accession Number:* 20120309–5185.

*Comments Due:* 5 p.m. ET 3/30/12.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES12–26–000.

*Applicants:* Ameren Services Company, Union Electric Company.

*Description:* Ameren Services Company on behalf of Union Electric Company submits Application FPA Section 204 authorization.

*Filed Date:* 3/8/12.

*Accession Number:* 20120308–5207.

*Comments Due:* 5 p.m. ET 3/29/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 12, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6512 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–2635–001; ER11–2637–001; ER11–39–002.

*Applicants:* Synergics Roth Rock Wind Energy, LLC, Synergics Roth Rock North Wind Energy, LLC, Flat Water Wind Farm, LLC.

*Description:* Supplemental Information of Roth Rock Wind Farm, LLC, et al.

*Filed Date:* 2/23/12.

*Accession Number:* 20120223–5096.

*Comments Due:* 5 p.m. ET 3/15/12.

*Docket Numbers:* ER12–545–001.

*Applicants:* Lake Cogen, Ltd.
*Description:* Lake Cogen, Ltd. submits tariff filing per 35: Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5120.
*Comments Due:* 5 p.m. ET 3/30/12.
*Docket Numbers:* ER12–547–001.
*Applicants:* Auburndale Power Partners, Limited Partnership.
*Description:* Auburndale Power Partners, Limited Partnership submits tariff filing per 35: Supplement to Notice of Non-Material Change in Status to be effective 5/8/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5123.
*Comments Due:* 5 p.m. ET 3/30/12.
*Docket Numbers:* ER12–1233–000.
*Applicants:* Arizona Public Service Company.
*Description:* Rate Schedule 257—Engineering & Procurement Agreement to be effective 3/12/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5004.
*Comments Due:* 5 p.m. ET 3/30/12.
*Docket Numbers:* ER12–1234–000.
*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.
*Description:* Revisions to FCM Rules Related to Capacity Transfer Rights to be effective 6/1/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5026.
*Comments Due:* 5 p.m. ET 3/30/12.
*Docket Numbers:* ER12–1235–000.
*Applicants:* Southern California Edison Company.
*Description:* Amended LGIA SCE–Palo Verde Solar II, LLC to be effective 1/7/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5046.
*Comments Due:* 5 p.m. ET 3/30/12.
*Docket Numbers:* ER12–1236–000.
*Applicants:* Interstate Power and Light Company.
*Description:* IPL and Great River Energy LBAOCA to be effective 5/8/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5065.
*Comments Due:* 5 p.m. ET 3/30/12.
*Docket Numbers:* ER12–1237–000.
*Applicants:* California Independent System Operator Corporation.
*Description:* 2012–03–09 CAISO's Amendment 5 to the PLA with CDWR to be effective 3/10/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5095.
*Comments Due:* 5 p.m. ET 3/30/12.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES12–23–000.
*Applicants:* Wolverine Power Supply Cooperative, Inc.
*Description:* Amendment to Application of Wolverine Power Supply Cooperative, Inc. under ES12–23.
*Filed Date:* 3/8/12.
*Accession Number:* 20120308–5200.
*Comments Due:* 5 p.m. ET 3/19/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 09, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6511 Filed 3–16–12; 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:* RP12–482–000.
*Applicants:* Petal Gas Storage, L.L.C.
*Description:* Cancellation of Second Revised version of Volume No. 1 to be effective 4/9/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5034.
*Comments Due:* 5 p.m. ET 3/21/12.
*Docket Numbers:* RP12–483–000.
*Applicants:* Petal Gas Storage, L.L.C.
*Description:* Submission of Third Revised Volume 1 to be effective 4/9/201.
*Filed Date:* 03/09/2012.
*Accession Number:* 20120309–5036.
*Comments Due:* 5 p.m. ET 3/21/12.
*Docket Numbers:* RP12–484–000.
*Applicants:* Northern Natural Gas Company.
*Description:* 20120309 Miscellaneous Filing to be effective 4/9/2012.
*Filed Date:* 3/9/12.
*Accession Number:* 20120309–5066.
*Comments Due:* 5 p.m. ET 3/21/12.

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.

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 12, 2012.

**Nathaniel J. Davis, Sr.**

*Deputy Secretary*

[FR Doc. 2012–6506 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL10–61–002]**

### Cargill Power Markets, LLC v. Public Service Company of New Mexico; Notice of Compliance Filing

Take notice that on March 12, 2012, Public Service Company of New Mexico and Cargill Power Markets, LLC submitted a compliance filing to modify the standard of review in the settlement agreement, pursuant to the Federal Energy Regulatory Commission's (Commission) Order Conditionally Approving Contested Settlement, issued December 30, 2011, 137 FERC ¶61,259 (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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 April 3, 2012.

Dated: March 13, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–6524 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER12–1223–000]**

### Wildcat Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wildcat Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 2, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6514 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER12–1250–000]**

### PSEG New Haven LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of PSEG New Haven LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 2, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6510 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER12–1244–000]**

### RLD Resources, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of RLD Resources, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 2, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6509 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER12–1239–000]**

### Crofton Bluffs Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Crofton Bluffs Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 2, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6508 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER12–1238–000]**

### Broken Bow Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Broken Bow Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 2, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6507 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER12–1228–000]**

### High Majestic Wind II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of High Majestic Wind II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 2, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–6505 Filed 3–16–12; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[D–Phila–2012–0001; FRL–9649–2]**

### Delegation of Authority To Implement and Enforce Additional National Emission Standards for Hazardous Air Pollutants to the Philadelphia Department of Public Health's Air Management Services

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of delegation of authority.

**SUMMARY:** On October 17, 2011, EPA sent the Philadelphia Department of Public Health's Air Management Services (AMS) a letter acknowledging that AMS's delegation of authority to implement and enforce National Emissions Standards for Hazardous Air Pollutants (NESHAP) had been updated, as provided for under a previously approved delegation mechanism. EPA sent this letter in response to an AMS request for the update. To inform regulated facilities and the public of AMS's updated delegation of authority to implement and enforce NESHAP, EPA is making available a copy of EPA's letter to AMS through this notice.

**DATES:** On October 17, 2011, EPA sent AMS a letter acknowledging that AMS's delegation of authority to implement and enforce NESHAP had been updated.

**ADDRESSES:** Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of AMS's submittal are also available at the Philadelphia Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104. Copies of AMS's request, and of EPA's response, may also be found posted on EPA Region III's Web site at: *http://www.epa.gov/reg3artd/airregulations/delegate/phdelegation.htm.*

**FOR FURTHER INFORMATION CONTACT:** Ray Chalmers, (215) 814–2061, or by email at *chalmers.ray@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On August 5, 2011, AMS requested that its delegation of authority to implement and enforce Federal NESHAP be updated to include several additional NESHAP. On October 17, 2011, EPA sent AMS a letter acknowledging that AMS's delegation of authority to implement and enforce NESHAP had been updated to include these additional NESHAP, as provided for under a previously approved delegation mechanism. All notifications, applications, reports and other correspondence required pursuant to the delegated NESHAP must be submitted to both the US EPA Region III and to AMS. A copy of EPA's letter to AMS follows:

Mr. Thomas Huynh
Director
Philadelphia Air Management Services
321 University Avenue, 2nd Floor
Philadelphia, PA 19104

Dear Mr. Huynh,

The United States Environmental Protection Agency (EPA) has previously delegated to the Philadelphia Department of Public Health's Air Management Services (AMS) the authority to implement and enforce various federal National Emissions Standards for Hazardous Air Pollutants (NESHAP), as found at 40 CFR Part 63. (67

FR 4181, January 29, 2002.) [1] EPA's approval of that previous delegation included an approval of an AMS mechanism for obtaining automatic delegation of any future NESHAP regulations which AMS adopted unchanged from the Federal requirements. This mechanism is for AMS to submit a letter requesting additional delegations to EPA.

In a letter dated August 5, 2011, AMS requested ''delegation by reference'' to implement and enforce the following additional NESHAP for area sources as in 40 C.F.R. Part 63:

1. Subpart BBBBBB—Gasoline Distribution Bulk Terminal, Bulk Plant and Pipeline Facilities.

2. Subpart CCCCCC—Gasoline Distribution, Gasoline Dispensing Facilities.

3. Subpart EEE—Hazardous Waste Combustors.

4. Subpart HHHHHH—Paint Stripping and Miscellaneous Surface Coating.

5. Subpart OOOOOO—Flexible Polyurethane Foam Fabrication and Production.

6. Subpart VVV—Publicly Owned Treatment Works (POTW).

7. Subpart WWWWW—Hospital Ethylene Oxide Sterilizers.

8. Subpart ZZZZZ—Iron and Steel Foundries.

AMS also requested ''automatic delegation'' of future amendments that EPA promulgates with respect to these NESHAP.

AMS specified in its request letter that it was seeking delegation of the authority to implement and enforce these additional NESHAP and future amendments that EPA promulgates with respect to these NESHAP under its previously approved mechanism for obtaining delegation of additional NESHAP.

On January 29, 2002, EPA initially delegated to AMS the authority to implement and enforce various NESHAP as found at 40 CFR Part 63. In this action, EPA concluded that AMS had demonstrated, as required, that AMS met the general ''up-front'' criteria for approval which are set forth at 40 C.F.R. § 63.91(d). According to 40 C.F.R. § 63.91(d)(2), ''[o]nce a State has satisfied the § 63.91(d) up-front approval requirements, it only needs to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent equivalency submittals.''

In its August 5, 2011 request for delegation of additional area source NESHAP, AMS included a full new demonstration that it met the requirements of 40 CFR § 63.91(d). While a full new demonstration was not required, EPA finds that the full new demonstration meets the requirement for a reaffirmation that AMS continues to meet the up-front approval requirements of 40 CFR § 63.91(d).

EPA finds that AMS has met the requirements to be automatically delegated the authority to implement and enforce the eight additional NESHAP for area sources specified in the listing above, as well as any future amendments EPA may promulgate with respect to them. Accordingly, EPA hereby delegates to AMS the authority to implement and enforce these eight additional NESHAP for area sources, as well as any future amendments EPA may make to them. This delegation to AMS is subject to the same terms of approval as set forth in EPA's initial January 29, 2002 delegation to AMS of the authority to implement and enforce NESHAPs as found at 40 CFR Part 63.

Please note that on December 19, 2008 in Sierra Club vs. EPA,[2] the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 CFR Part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued the mandate vacating these SSM exemption provisions, which are found at 40 CFR § 63.6(f)(1) and (h)(1).

Accordingly, EPA no longer allows sources the SSM exemption as provided for in the vacated provisions at 40 CFR § 63.6(f)(1) and (h)(1), even though EPA has not yet formally removed the SSM exemption provisions from the General Provisions of 40 CFR Part 63. Because AMS incorporated 40 CFR Part 63 by reference, AMS should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 CFR Part 63 due to the Court's ruling in Sierra Club vs. EPA.

EPA appreciates AMS's continuing NESHAP implementation and enforcement efforts, and also AMS's decision to take automatic delegation of eight additional and more recent NESHAP for area sources.

If you have any questions, please contact me or Ms. Kathleen Cox, Associate Director, Office of Permits and Air Toxics, at 215–814–2173.

Sincerely,

Diana Esher, *Director*
*Air Protection Division*

This notice acknowledges the update of AMS's delegation of authority to implement and enforce NESHAP.

Dated: March 6, 2012.

**Diana Esher,**

*Director, Air Protection Division, Region III.*

[FR Doc. 2012–6559 Filed 3–16–12; 8:45 am]

**BILLING CODE 6560–50–P**

[1] EPA has posted copies of this action at: *http://www.epa.gov/reg3artd/airregulations/delegate/phdelegation.htm.*

[2] *Sierra Club* v. *EPA*, 551 F.3rd 1019 (D.C. Cir. 2008).

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9649–8]**

## FY2012 Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of the availability of funds.

**SUMMARY:** EPA's Office of Brownfields and Land Revitalization (OBLR) plans to make available approximately $7 million to provide supplemental funds to Revolving Loan Fund capitalization grants previously awarded competitively under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9604(k)(3). Brownfields Cleanup Revolving Loan Fund (BCRLF) pilots awarded under section 104(d)(1) of CERCLA that have not transitioned to section 104(k)(3) grants are not eligible to apply for these funds. EPA will consider awarding supplemental funding only to RLF grantees who have demonstrated an ability to deliver programmatic results by making at least one loan or subgrant. The award of these funds is based on the criteria described at CERCLA 104(k)(4)(A)(ii).

The Agency is now accepting requests for supplemental funding from RLF grantees. Requests for funding must be submitted to the appropriate EPA Regional Brownfields Coordinator (listed below) by April 18, 2012. Funding requests for hazardous substances and/or petroleum funding will be accepted. Specific information on submitting a request for RLF supplemental funding is described below and additional information may be obtained by contacting the EPA Regional Brownfields Coordinator.

**DATES:** This action is effective March 19, 2012.

**ADDRESSES:** A request for supplemental funding must be in the form of a letter addressed to the appropriate Regional Brownfields Coordinator (see listing below) with a copy to Megan Quinn, *Quinn.Megan@epa.gov* or U.S. EPA, 1200 Pennsylvania Ave. NW., MC: 5105T, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Megan Quinn, U.S. EPA, (202) 566–2773 or the appropriate Brownfields Regional Coordinator.

**SUPPLEMENTARY INFORMATION:**

### Background

The Small Business Liability Relief and Brownfields Revitalization Act added section 104(k) to CERCLA to authorize federal financial assistance for brownfields revitalization, including grants for assessment, cleanup and job training. Section 104(k) includes a provision for the EPA to, among other things, award grants to eligible entities to capitalize Revolving Loan Funds and to provide loans and subgrants for brownfields cleanup. Section 104(k)(4)(A)(ii) authorizes EPA to make additional grant funds available to RLF grantees for any year after the year for which the initial grant is made (noncompetitive RLF supplemental funding) taking into consideration:

(I) The number of sites and number of communities that are addressed by the revolving loan fund;

(II) The demand for funding by eligible entities that have not previously received a grant under this subsection;

(III) The demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

(IV) Such other similar factors as the [Agency] considers appropriate to carry out this subsection.

**Eligibility**

In order to be considered for supplemental funding, grantees must demonstrate that they have expended existing funds and that they have a clear plan for quickly expending requested additional funds. Grantees must demonstrate that they have made at least one loan or subgrant prior to applying for this supplemental funding and have significantly depleted existing available funds. For FY2012, EPA defines ''significantly depleted funds'' as any grant where $250,000–$300,000 or less remains uncommitted for single entities and $300,000–$400,000 or less remains uncommitted for states/large coalitions. Additionally, the RLF recipient must have demonstrated a need for supplemental funding based on, among other factors, the number of sites that will be addressed; demonstrated the ability to make loans and subgrants for cleanups that can be started and completed expeditiously (i.e. ''shovel-ready'' projects) and will lead to redevelopment; demonstrated the existence of additional leveraged funds to complete the project in a timely manner and move quickly from cleanup to redevelopment, including the use of tax incentives such as new market tax credits, direct funding or other resources to advance the project to completion; demonstrated the ability to administer and revolve the capitalization funding in the RLF grant; demonstrated an ability to use the RLF grant to address funding gaps for cleanup; and demonstrated that they have provided a community benefit from past and potential loan(s) and/or subgrant(s). Special consideration may be given to those communities affected by auto plant closures or other economic disruptions. Special consideration may also be given to those grantees that can demonstrate projects that have a clear prospect of aiding the in-sourcing of manufacturing capacity and keeping and/or adding jobs, or otherwise creating jobs, in the affected area. Applicants for supplemental funding must contact the appropriate Regional Brownfields Coordinator below to obtain information on the format for supplemental funding applications for their region. When requesting supplemental funding, applicants must specify whether they are seeking funding for sites contaminated by hazardous substances or petroleum. Applicants may request both types of funding.

REGIONAL CONTACTS

| Region & states | | Address/Phone number/Email |
|---|---|---|
| EPA Region 1, Diane Kelley, *Kelley.Diane@epa.gov*. | CT, ME, MA, NH, RI, VT. | One Congress Street, Suite 1100, Boston, MA 02114–2023, Phone (617) 918–1424, Fax (617) 918–1291. |
| EPA Region 2, Lya Theodoratos, *Theodoratos.Lya@epa.gov*. | NJ, NY, PR, VI ..... | 290 Broadway, 18th Floor, New York, NY 10007, Phone (212) 637–3260, Fax (212) 637–4360. |
| EPA Region 3, Tom Stolle, *Stolle.Tom@epa.gov*. | DE, DC, MD, PA, VA, WV. | 1650 Arch Street, Mail Code 3HS51, Philadelphia, Pennsylvania 19103, Phone (215) 814–3129, Fax (215) 814–5518. |
| EPA Region 4, Phil Vorsatz, *Vorsatz.Philip@epa.gov*. | AL, FL, GA, KY, MS, NC, SC, TN. | Atlanta Federal Center, 61 Forsyth Street, S.W., 10TH FL, Atlanta, GA 30303–8960, Phone (404) 562–8789 Fax (404) 562–8439. |
| EPA Region 5, Deborah Orr, *Orr.Deborah@epa.gov*. | IL, IN, MI, MN, OH, WI | 77 West Jackson Boulevard, Mail Code SE–4J, Chicago, Illinois 60604–3507, Phone (312) 886–7576, Fax (312) 886–7190. |
| EPA Region 6, Mary Kemp, *Kemp.Mary@epa.gov*. | AR, LA, NM, OK, TX .. | 1445 Ross Avenue, Suite 1200 (6SF–PB), Dallas, Texas 75202–2733, Phone (214) 665–8358, Fax (214) 665–6660. |
| EPA Region 7, Susan Klein, *Klein.Susan@epa.gov*. | IA, KS, MO, NE ..... | 901 N. 5th Street, Kansas City, Kansas 66101, Phone (913) 551–7786 Fax (913) 551–8688. |
| EPA Region 8, Dan Heffernan, *Heffernan.Daniel@epa.gov*. | CO, MT, ND, SC, UT, WY. | 1595 Wynkoop Street (EPR–B), Denver, CO 80202–1129, Phone (303) 312–7074, Fax (303) 312–6065. |
| EPA Region 9, Noemi Emeric-Ford, *Emeric-Ford.Noemi@epa.gov*. | AZ, CA, HI, NV, AS, GU. | 75 Hawthorne Street, WST–8, San Francisco, CA 94105, Phone (213) 244–1821, Fax (415) 972–3364. |
| EPA Region 10, Susan Morales, *Morales.Susan@epa.gov*. | AK, ID, OR, WA ..... | 1200 Sixth Avenue, Suite 900, Mailstop: ECL–112 Seattle, WA 98101, Phone (206) 553–7299, Fax (206) 553–0124. |

Dated: March 13, 2012.

**Gail A. Cooper,**

*Acting Director, Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response.*

[FR Doc. 2012–6581 Filed 3–16–12; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and Request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to

minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 18, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0139.

*Title:* Application for Antenna Structure Registration.

*Form Number:* FCC Form 854.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Individuals or households; business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

*Number of Respondents:* 2,500 respondents; 47,500 responses.

*Estimated Time per Response:* .5 hours to 60 hours.

*Frequency of Response:* On occasion reporting requirement and recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 303(q), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 303(q), 303(r), and 309(j), Section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(C), and Section 1506.6 of the regulations of the Council on Environmental Quality, 40 CFR 1506.6.

*Total Annual Burden:* 21,345 hours.

*Total Annual Cost:* $975,725.

*Privacy Impact Assessment:* Yes. This information collection contains personally identifiable information on individuals which is subject to the Privacy Act of 1974. Information on the FCC Form 854 is maintained in the Commission's System of Records, FCC/WTB–1, ''Wireless Services Licensing Records''. These licensee records are publicly available and routinely used in accordance of subsection b of the Privacy Act, 5 U.S.C. 552a(b), as amended. Taxpayer Identification Numbers (TINs) and materials that are afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection.

*Nature and Extent of Confidentiality:* Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the entity remains a tower owner. Paper records will be archived after being keyed or scanned into the Antenna Structure Registration (ASR) database and destroyed when twelve (12) years old; electronic records will be backed up and deleted twelve (12) years after the registration is no longer valid.

*Needs and Uses:* The Commission is seeking OMB approval for a revision of this information collection in order to obtain the full three year approval from OMB. There is no change to the Commission's previous burden estimates.

The purpose of the FCC Form 854 is to register antenna structures (radio towers) that are used for wire or radio communication services which are regulated by the Commission; to make changes to existing registered antenna structures or pending applications for registration; or to notify the Commission of the completion of construction or dismantlement of such structures, as required by Title 47 of the Code of Federal Regulations (CFR), Chapter 1, §§ 1.923, 1.1307, 1.1311, 17.1, 17.2, 17.4, 17.5, 17.6, 17.7, 17.57 and 17.58.

On December 9, 2011, the Commission adopted and released the Migratory Bird Order on Remand (*Remand Order*), WTB Docket Nos. 08–61 and 03–187, FCC 11–181, in response to the decision of the Court of Appeals for the District of Columbia Circuit in *American Bird Conservancy* v. *FCC,* 516 F.3d 1027 (DC Cir. 2008). The Court held that the Commission's current Antenna Structure Registration (ASR) procedures do not offer members of the public a meaningful opportunity to request an Environmental Assessment for proposed towers the Commission considers categorically excluded from review under the National Environment Policy Act (NEPA). To address the court's holding, the *Remand Order* adds a pre-application notification process to the ASR procedures so that members of the public will have a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission. The Remand Order also adopts an interim requirement to prepare Environmental Assessments for antenna structures that are over 450 feet in height.

The Commission is revising the FCC Form 854 to comply with the Remand Order by adding questions that will facilitate the pre-application notification process. In addition, FCC Form 854 is being revised to include several administrative-related questions that will enable the Commission to more efficiently process antenna structure registration. The additional questions relate to replacement towers; requirements to post local and national notice so that the public may have a meaningful opportunity to comment on the environmental effects of a proposed structure that requires registration; determining if the structure is located on federal land; allowing the applicant to select the type of painting and/or lighting it will utilize on the structure being registered; and collecting additional administrative information such as the type of entity that owns the structure, fax number, and count and ZIP code in which the structure is located.

*OMB Control Number:* 3060–0798.

*Title:* FCC Application for Radio Service Authorization: Wireless Telecommunications Bureau and Public Safety Homeland Security Bureau.

*Form Number:* FCC Form 601, Schedules D, I and M.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Individuals or households; business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

*Number of Respondents:* 253,120 respondents; 253,120 responses.

*Estimated Time per Response:* 1.25 hours.

*Frequency of Response:* On occasion and every 10 years reporting requirements, third party disclosure

requirement and recordkeeping requirement.

*Obligation To Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534 and 535 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 221,780 hours.

*Total Annual Cost:* $55,140,000.

*Privacy Impact Assessment:* Yes.

*Nature and Extent of Confidentiality:* There is no need for confidentiality. On a case-by-case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

*Needs and Uses:* The Commission is seeking OMB approval for a revision of this information collection in order to obtain the full three year approval from OMB. There is no change to the Commission's previous burden estimates.

FCC Form 601 is a consolidated, multi-part application form, or ''long form'', that is used for general market-based licensing and site-by-site licensing for wireless telecommunications and public safety services filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains the administrative information and a series of schedules used for filing technical and other information. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction.

The data collected on the FCC Form 601 include the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires those entities filing with the Commission to use a FRN.

Additionally, the FCC Form 601 is used for auctionable services as they are implemented: FCC Form 601 is used to apply for a new authorization, or to amend a pending application for an authorization to operate a license wireless radio services. This includes Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Instructional Television Fixed Service (ITFS) and the Multipoint Distribution Service (MDS), Maritime Services (excluding ships), and Aviation Services (excluding aircraft). It may also be used to modify or renew an existing license, cancel a license, withdraw a pending application, obtain a duplicate license, submit required notifications, request an extension of time to satisfy construction requirements, or request an administrative update to an existing license (such as mailing address change, request a Special Temporary Authority (STA) or a Developmental License.

The Commission is now seeking OMB approval for a revision of the FCC Form 601, Schedules D, I and M to allow respondents the option to provide a pending File Number for an Antenna Structure Registration (ASR). Previously ULS would only accept a granted ASR registration number. This change is being made to allow applicants to file a FCC Form 601 application while the ASR application is going through the new environmental notice process as required by the Migratory Bird Order on Remand, WTB Docket Nos. 08–61 and 03–187. The entries for structure type are changing as a result of the Order as well.

*OMB Control Number:* 3060–0645.

*Title:* Sections 17.4, 17.48 and 17.49, Antenna Structure Registration Requirements.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

*Number of Respondents:* 2,500 respondents; 268,700 responses.

*Estimated Time per Response:* .1–.25 hours.

*Frequency of Response:* On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

*Obligation To Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154 and 303.

*Total Annual Burden:* 29,155 hours.

*Total Annual Cost:* $53,000.

*Privacy Impact Assessment:* N/A.

*Nature and Extent of Confidentiality:* There is no need for confidentiality. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

*Needs and Uses:* The Commission is seeking OMB approval for an extension of this information collection in order to obtain the full three year approval. The Commission has adjusted its burden and cost estimates in order to update the collection burdens necessary to implement a uniform registration process as well as safe and effective lighting procedures for owners of antenna structures.

Section 17.4 requires the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration (FAA) to register the structure with the Commission. Section 17.4 also requires antenna structure owners to provide their tenants with copies of the antenna structure registration. This includes those structures used as part of the stations licensed by the Commission for the transmission of radio energy, or to be used as part of a cable television head-end system. If a Federal Government antenna structure is to be used by a Commission licensee, the structure must be registered with the Commission. A registration number is issued to identify antenna structure owners in order to enforce the Congressionally-mandated provisions related to the owners.

Sections 17.48 and 17.49 contain reporting and recordkeeping requirements. Section 17.48 requires the notification of the FAA of any extinguishment or improper functioning of antenna structure lighting, and § 17.49 requires the recording of antenna structure light inspections in the owner's record.

The information collected is used by the Commission during investigations related to air safety and if the information were not collected, the Commission would not be able to adequately conduct these investigations. The information is also used to protect air safety by ensuring that pilots are adequately informed of lighting outages.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2012–6542 Filed 3–16–12; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Sunshine Act Meeting; Open Commission Meeting; Wednesday, March 21, 2012

March 14, 2012.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, March 21, 2012, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

| Item Nos. | Bureau | Subject |
|---|---|---|
| 1 | MEDIA | *Title:* Revision of the Commission's Program Access Rules; News Corporation and The DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, for Authority to Transfer Control (MB Docket No. 07–18) and Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees, et al. (MB Docket No. 05–192)<br>*Summary:* The Commission will consider a Notice of Proposed Rulemaking exploring whether to retain, sunset, or relax the exclusive contract prohibition of the program access rules and whether to revise the program access rules to better address alleged violations. |
| 2 | MEDIA | *Title:* Creation of a Low Power Radio Service (MM Docket No. 99–25) and Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations (MB Docket No. 07–172, RM–11338)<br>*Summary:* The Commission will consider a Fourth Report and Order and Third Order on Reconsideration to implement a market-specific FM translator processing scheme, adopt application caps to prevent trafficking, and modify policies to expand opportunities to rebroadcast AM stations on FM translators. |
| 3 | MEDIA | *Title:* Creation of a Low Power Radio Service (MM Docket No. 99–25)<br>*Summary:* The Commission will consider a Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration regarding proposals to implement the Local Community Radio Act and to strengthen the LPFM service, including second adjacent channel waiver procedures, interference remediation requirements, and modification of eligibility, ownership, and selection standards. |
| 4 | Wireless Tele-Communications | *Title:* Promoting Interoperability in the 700 MHz Commercial Spectrum and Interoperability of Mobile User Equipment Across Paired Commercial Spectrum Blocks in the 700 MHz Band (RM–11592)<br>*Summary:* The Commission will consider a Notice of Proposed Rulemaking concerning the potential for harmful interference to Lower 700 MHz B and C Block operations if the Lower 700 MHz Band were interoperable and whether, if such interference exists, it can be reasonably mitigated. The NPRM also seeks comment on the best course of action should the Commission determine that interoperability would cause limited or no harmful interference to Lower 700 MHz B and C Block licensees, or that such interference can be reasonably mitigated. |
| 5 | Wireless Tele-Communications And International. | *Title:* Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands; Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz,1610–1626.5 MHz and 2483.5–2500 MHz 2000–2020 MHz and 2180–2200 MHz (ET Docket No. 10–142) and Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands (WT Docket No. 04–356)<br>*Summary:* The Commission will consider a Notice of Proposed Rulemaking and Notice of Inquiry proposing service, technical, assignment, and licensing rules for flexible terrestrial use of spectrum currently assigned to the Mobile Satellite Service (MSS) in the 2 GHz band. And an alternative band plan involving additional spectrum at 1695–1710 MHz that the National Telecommunications and Information Administration (NTIA) has proposed to reallocate from Federal to commercial use. |

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or Meribeth McCarrick, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live <http://www.fcc.gov/live>*.

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu*.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by email at *FCC@BCPIWEB.com*.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2012–6734 Filed 3–15–12; 4:15 pm]

**BILLING CODE 6712–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission.

**DATE AND TIME:** Thursday, March 22, 2012 at 10 a.m.

**PLACE:** 999 E Street NW., Washington, DC (Ninth Floor).

**STATUS:** This Meeting Will Be Open to the Public.

**ITEMS TO BE DISCUSSED:** Correction and Approval of the Minutes for the Meeting of March 1, 2012.

Draft Advisory Opinion 2012–05: Tom Lantos for Congress Committee and The Lantos Foundation for Human Rights & Justice.

Draft Advisory Opinion 2012–06: *RickPerry.org,* Inc.

Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shelley E. Garr, Deputy Secretary, at (202) 694–1040, at least 72 hours prior to the meeting date.

**PERSON TO CONTACT FOR INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Shelley E. Garr,**

*Deputy Secretary of the Commission.*

[FR Doc. 2012–6653 Filed 3–15–12; 11:15 am]

**BILLING CODE 6715–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 2012.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204:

1. *Meetinghouse Bancorp, Inc.,* Dorchester, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Meetinghouse Bank, Dorchester, Massachusetts.

Board of Governors of the Federal Reserve System, March 14, 2012.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2012–6528 Filed 3–16–12; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HIT Standards Committee Advisory Meeting; Notice of Meeting

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

*Name of Committee:* HIT Standards Committee.

*General Function of the Committee:* to provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

*Date and Time:* The meeting will be held on March 27, 2012, from 9 a.m. to 3 p.m./Eastern Time.

*Location:* Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

*Contact Person:* Mary Jo Deering, Office of the National Coordinator, HHS, 330 C Street SW., Washington, DC 20201, (202) 260–1944, Fax: (202) 690–6079, email: *maryjo.deering@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

*Agenda:* The committee will hear reports from its workgroups, including the Clinical Operations, Vocabulary Task Force, Clinical Quality, Implementation, and Enrollment Workgroups. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 17, 2011. Oral comments from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m./Eastern Time. Time allotted for each presentation will be limited to three minutes each. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Mary Jo Deering at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: March 8, 2012.

**Mary Jo Deering,**

*Acting Director, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 2012–6434 Filed 3–15–12; 8:45 am]

**BILLING CODE 4150–45–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2008–P–0528]**

### Determination That CITANEST (Prilocaine Hydrochloride) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (Prilocaine Hydrochloride) Injection, 4%, 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 CITANEST (prilocaine hydrochloride (HCl)) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for prilocaine HCl injection, 1%, 2%, and 3%, and prilocaine HCl injection, 4%, if all legal and regulatory requirements are met.

**FOR FURTHER INFORMATION CONTACT:** S. Mitchell Weitzman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6318, Silver Spring, MD 20993–0002, 301–796–3511.

**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.

CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, are the subject of NDA 14–763, held by AstraZeneca, and initially approved on November 18, 1965. CITANEST and CITANEST PLAIN are indicated for the production of local anesthesia in infiltration procedures, peripheral nerve blocks, and epidural or caudal blocks.

In a letter dated August 28, 2002, AstraZeneca notified FDA that they had decided to withdraw NDA 14–763 for CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%; CITANEST PLAIN (prilocaine HCl) Injection, 4%; and CITANEST FORTE (epinephrine bitartrate and prilocaine HCl) Injection, 0.005 milligrams/milliliter and 4%,[1] in accordance with 21 CFR 314.150(c). FDA moved the drug products to the ''Discontinued Drug Product List'' section of the Orange Book. In the **Federal Register** of August 18, 2003 (68 FR 49481), FDA announced that it was withdrawing approval of NDA 14–763, effective September 17, 2003.

Lachman Consultant Services, Inc., submitted a citizen petition dated September 25, 2008 (Docket No. FDA–2008–P–0528), under 21 CFR 10.30, requesting that the Agency determine whether prilocaine HCl injections, 1%, 2%, 3%, and 4%, NDA 14–763, were withdrawn from sale for reasons of safety or effectiveness.

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 CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, were not withdrawn for reasons of safety or effectiveness.

The petitioner has identified no data or other information suggesting that CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, 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 CITANEST (prilocaine HCl) Injections, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, 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 CITANEST (prilocaine HCl) Injection, 1%, 2%, and 3%, and CITANEST PLAIN (prilocaine HCl) Injection, 4%, 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 13, 2012.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2012–6501 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

[1] This notice does not include a determination as to whether CITANEST FORTE, approved under NDA 14–763, was withdrawn for reasons of safety or efficacy.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–D–0226]**

### Guidance for Industry, Third Parties and Food and Drug Administration Staff; Medical Device ISO 13485:2003 Voluntary Audit Report Submission Pilot Program; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Medical Device ISO 13485:2003 Voluntary Audit Report Submission Pilot Program.'' This guidance document is intended to provide information on the implementation of the Food and Drug Administration Amendments Act of 2007 (FDAAA), which amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act). This guidance document describes how FDA's Center for Devices and Radiological Health (CDRH) and Center for Biologics Evaluation and Research (CBER) are implementing this provision of the law. The Pilot Program will be effective June 5, 2012.

**DATES:** Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the guidance document entitled ''Medical Device ISO 13485:2003 Voluntary Audit Report Submission Pilot Program'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002 or Office of Communication, Outreach and Development (HFM–40), 1401 Rockville Pike, suite 200N, Rockville, MD 20852. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Kimberly A. Trautman, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5400, Silver Spring, MD 20993–0002, 301–796–5515; or 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.

## I. Background

This guidance document is intended to provide information on the implementation of section 228 of FDAAA (Pub. L. 110–85), which amends section 704(g)(7) of the FD&C Act (21 U.S.C. 374(g)(7)). Under this guidance document, a device manufacturer whose establishment has been audited under one of the regulatory systems implemented by the Global Harmonization Task Force (GHTF) founding members [1] using International Organization for Standardization (ISO) 13485:2003 ''Medical devices—Quality management systems—Requirements for regulatory purposes'' and ISO 13485:2003 Technical Corrigendum 1:2009 ''Medical devices—Quality management systems—Requirements for regulatory purposes,'' (ISO 13485:2003) or a national adoption of this standard, e.g., EUROPEAN STANDARD EN ISO 13485 July 2003 + AC August 2009, ''Medical devices—Quality management systems—Requirements for regulatory purposes'' (ISO 13485:2003 + Cor 1:2009) (EN ISO 13485:2003/AC:2009), National Standard of Canada CAN/CSA–ISO 13485:03 (ISO 13485:2003) ''Medical devices — Quality management systems—Requirements for regulatory purposes'' (Reaffirmed 2008) (CAN/CAS ISO 13485 13485:2003)), may voluntarily submit the resulting audit report to FDA. If, based on that report, FDA determines that there is minimal probability—in light of the relationship between the quality system deficiencies observed and the particular device and manufacturing processes involved—that the establishment will produce nonconforming and/or defective finished devices,[2] then FDA intends to use the audit results as part of its risk assessment to determine whether that establishment can be removed from FDA's routine work plan for 1 year. The voluntarily submitted ISO 13485:2003 ''Medical devices—Quality management systems—Requirements for regulatory purposes'' and ISO 13485:2003 Technical Corrigendum 1:2009 ''Medical devices—Quality management systems—Requirements for regulatory purposes,'' (ISO 13485:2003) audit report provides FDA a degree of assurance of compliance with basic and fundamental quality management system requirements for medical devices.

The medical device ISO 13485:2003 Voluntary Audit Report Submission Pilot Program outlined in the guidance is another way in which FDA may leverage audits performed by other GHTF regulators and their accredited third parties in order to assist FDA in setting risk-based inspectional priorities.

The draft guidance document entitled, ''Medical Device ISO 13485:2003 Voluntary Audit Report Submission Program'' was published for comment in the **Federal Register** of May 20, 2010 (75 FR 28257). Comments on the collection information were due July 19, 2010, and comments on the draft guidance document were due by August 18, 2010.

FDA received comments and suggestions to pilot this program for a period of time; an evaluation will follow to allow both FDA and industry to work out potential issues, obstacles, and resource allocations. FDA agrees and has decided to pilot this ISO 13485 Voluntary Audit Report Submission Program for a period of 2 years effective June 5, 2012. FDA will then evaluate the program and report on the findings and any issues or suggested changes.

## II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on ''Medical Device ISO 13485:2003 Voluntary Audit Report Submission Pilot Program.'' 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 statute and regulations.

## III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or from the CBER Internet site at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* To receive ''Medical Device ISO 13485:2003 Voluntary Audit Report Submission Pilot Program'' you may either send an email request to *dsmica@fda.hhs.gov* to

[1] The GHTF founding members auditing systems include: The Canadian Medical Devices Conformity Assessment System; the European Union Notified Body Accreditation System; the Therapeutics Goods Administration of Australia Inspectorate; and the Japanese Ministry of Health, Labour and Welfare System for Medical Devices and In-Vitro Diagnostics.

[2] See February 2, 2011, Compliance Program (CP) 7382.845 Inspection of Medical Device Manufacturers Part V *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm072753.htm.*

receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1746 to identify the guidance you are requesting.

**IV. Paperwork Reduction Act of 1995**

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collection(s) of information in this guidance was approved under OMB control number 0910–0700. This final guidance also refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 820 are currently approved under OMB control number 0910–0073 and the collections of information for the Inspection by Accredited Persons Program are currently approved under OMB control number 0910–0569.

**V. 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.

Dated: March 13, 2012.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2012–6503 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–N–0001]**

### Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Endocrinologic and Metabolic Drugs Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the Agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on May 10, 2012, from 8 a.m. to 5 p.m.

*Location:* DoubleTree by Hilton Hotel Washington, DC-Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD. The hotel telephone number is 301–589–5200.

*Contact Person:* Paul Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

*Agenda:* The committee will discuss the safety and efficacy of new drug application (NDA) 22–529 (lorcaserin hydrochloride) tablets, manufactured by Arena Pharmaceuticals, Inc., as an adjunct to diet and exercise for weight management in patients with a body mass index (BMI) equal to or greater than 30 kilograms (kg) per square meter or a BMI equal to or greater than 27 kg per square meter if accompanied by weight-related comorbidities.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 26, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 18, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 19, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paul Tran at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 13, 2012.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2012–6483 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–N–0001]**

### Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Circulatory System Devices Panel of the Medical Devices Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the Agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on April 25 and 26, 2012, from 8 a.m. to 6 p.m.

*Location:* Holiday Inn, Ballroom, 2 Montgomery Village Ave., Gaithersburg, MD 20879. The hotel's phone number is 301–948–8900.

*Contact Person:* Jamie Waterhouse, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–3063, email: *Jamie.Waterhouse@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

**Agenda**

On April 25, 2012, the committee will discuss, make recommendations and vote on information related to a supplement to the premarket approval application (PMA) for the HeartWare Ventricular Assist System (HVAS) sponsored by HeartWare, Inc. The HVAS is an implantable electrically powered centrifugal-flow rotary blood pump with external driver and power source(s). It is the first ventricular assist device that does not require the creation of an abdominal pump pocket. The HVAS is indicated for use as a bridge to cardiac transplantation in patients who are at risk of death from refractory, advanced heart failure.

On April 26, 2012, the committee will discuss, make recommendations and vote on information related to the PMA for the Subcutaneous Implantable Cardioverter Defibrillator (S–ICD) System sponsored by Cameron Health, Inc. The S–ICD is the first implantable defibrillator that does not require the implantation of an electrode either on or in the heart. The S–ICD is intended to provide defibrillation therapy for the treatment of life-threatening ventricular tachyarrhythmias. The device is capable of delivering high energy defibrillation shocks as well as bradycardia demand mode cardiac pacing. The study provides data from the treatment of induced acute and chronic episodes of ventricular tachycardia/ventricular fibrillation and spontaneous episodes. In addition to the investigational device exemption study, clinical data were also obtained from using studies outside the United States and registries.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

**Procedure**

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 17, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on April 25 and 26, 2012. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 10, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 12, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, at *AnnMarie.Williams@fda.hhs.gov,* 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 13, 2012.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2012–6484 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–N–0190]**

### Abbott Laboratories et al.; Withdrawal of Approval of 35 New Drug Applications and 64 Abbreviated New Drug Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is withdrawing approval of 35 new drug applications (NDAs) and 64 abbreviated new drug applications (ANDAs) from multiple applicants. The holders of the applications notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

**DATES:** *Effective Date:* April 18, 2012.

**FOR FURTHER INFORMATION CONTACT:** Florine P. Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6366, Silver Spring, MD 20993–0002, 301–796–3601.

**SUPPLEMENTARY INFORMATION:** The holders of the applications listed in table 1 in this document have informed

FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

TABLE 1

| Application No. | Drug | Applicant |
|---|---|---|
| NDA 005545 | Dicumarol Tablets | Abbott Laboratories, PA77/Bldg. AP30–1E, 200 Abbott Park Rd., Abbott Park, IL 60064–6157. |
| NDA 005845 | Benadryl (diphenhydramine hydrochloride (HCl)), Benadryl with Ephedrine Sulfate, and Caladryl (diphenhydramine HCl and calamine). | McNeil Consumer Healthcare, Division of McNeil-PPC, Inc., 7050 Camp Hill Rd., Fort Washington, PA 19034–2299. |
| NDA 006146 | Benadryl (diphenhydramine HCl)) Injection | Do. |
| NDA 006773 | Artane (trihexyphenidyl HCl) Tablets and Capsules and Artane (trihexyphenidyl) Elixir. | Lederle Laboratories, d/b/a Wyeth Pharmaceuticals, P.O. Box 8299, Philadelphia, PA 19101–8299. |
| NDA 009486 | Benadryl (diphenhydramine HCl)) Injection Preservative Free. | McNeil Consumer Healthcare. |
| NDA 010021 | Placidyl (ethchlorvynol) Capsules | Abbott Laboratories, 200 Abbott Park Rd., Abbott Park, IL 60064. |
| NDA 011552 | Stelazine (trifluoperazine HCl) | GlaxoSmithKline, P.O. Box 13398, Five Moore Dr., Research Triangle Park, NC 27709–3398. |
| NDA 012524 | Enduron (methyclothiazide) Tablets, 2.5 milligrams (mg) and 5 mg. | Abbott Laboratories, PA77/Bldg. AP30–1E, 200 Abbott Park Rd., Abbott Park, IL 60064–6157. |
| NDA 012775 | Enduronyl and Enduronyl Forte (methyclothiazide and deserpidine) Tablets. | Do. |
| NDA 014684 | Aventyl (nortriptyline HCl) Capsules | Eli Lilly and Co., Lilly Corp. Center, Indianapolis, IN 46285. |
| NDA 017577 | Ditropan (oxybutynin chloride) Tablets | Janssen Pharmaceuticals Inc., c/o Johnson & Johnson Pharmaceutical Research and Development, LLC, 920 Route 202, P.O. Box 300, Raritan, NJ 08869. |
| NDA 018473 | Ventolin (albuterol) Inhalation Aerosol[1] | GlaxoSmithKline. |
| NDA 018557 | Fansidar (sulfadoxine and pyrimethamine) Tablets, 500 mg and 25 mg. | Hoffman-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199. |
| NDA 018709 | Capozide (captopril and hydrochlorothiazide) Tablets | Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000. |
| NDA 018814 | Heparin Sodium in 5% Dextrose Injection | Baxter Healthcare Corp., 1620 Waukegan Rd., MPGR–AL, McGaw Park, IL 60085. |
| NDA 019297 | Novantrone (mitoxantrone HCl) Injection | EMD Serono, One Technology Place, Rockland, MA 02370. |
| NDA 019508 | Axid (nizatidine) Capsules | SmithKline Beecham Corp., d/b/a GlaxoSmithKline, P.O. Box 13398, Five Moore Dr., Research Triangle Park, NC 27709–3398. |
| NDA 019915 | Monopril (fosinopril sodium) Tablets, 10 mg, 20 mg, and 40 mg. | Bristol-Myers Squibb Co. |
| NDA 019946 | Nuromax (doxacurium chloride) Injection 1 mg/milliliter (mL). | Abbott Laboratories, P76/Bldg. AP30–1E, Abbott Park, IL 60064–6157. |
| NDA 019960 | Manoplax (flosequinan) Tablets | Do. |
| NDA 020057 | Ceredase (alglucerase) Injection | Genzyme Corp., 500 Kendall St., Cambridge, MA 02142. |
| NDA 020088 | Norplant System (levonorgestrel) Implants | Wyeth Pharmaceuticals, Inc., P.O. Box 8299, Philadelphia, PA 19101–8299. |
| NDA 020101 | Prozac (fluoxetine HCl) Oral Solution, 20 mg/5 mL | Eli Lilly and Co. |
| NDA 020236 | Serevent (salmeterol xinafoate) Inhalation Aerosol[1] | GlaxoSmithKline. |
| NDA 020286 | Monopril-HCT (fosinopril sodium and hydrochlorothiazide) Tablets, 20 mg/12.5 mg and 10 mg/12.5 mg. | Bristol-Myers Squibb Co. |
| NDA 020403 | Zofran (ondansetron HCl) Injection | Glaxo Wellcome Manufacturing Pte Limited, d/b/a GlaxoSmithKline, 1250 Collegeville Rd., UP4110, Collegeville, PA 19426. |
| NDA 020627 | Norplant II System (levonorgestrel) Implants | Wyeth Pharmaceuticals, Inc. |
| NDA 020828 | Fortovase (saquinavir) Capsules, 200 mg | Hoffman-La Roche, Inc. |
| NDA 020860 | Levlite (ethinyl estradiol and levonorgestrel) Tablets | Bayer HealthCare Pharmaceuticals Inc., P.O. Box 1000, Montville, NJ 07045. |
| NDA 020984 | Raplon (rapacuronium bromide) for Injection | Organon USA Inc., 2000 Galloping Hill Rd., Kenilworth, NJ 07033. |
| NDA 021120 | Novantrone (mitoxantrone HCl) Injection | EMD Serono. |
| NDA 021793 | Reglan ODT (metoclopramide) Tablets | Meda Pharmaceuticals Inc., 200 North Cobb Parkway, Suite 428, Marietta, GA 30062. |
| ANDA 040207 | Prochlorperazine Maleate Tablets USP, 5 mg and 10 mg. | Duramed Pharmaceuticals, Inc., 400 Chestnut Rd., Woodcliff Lake, NJ 07677. |
| ANDA 040231 | Chlorpromazine HCl Oral Concentrate USP, 30 mg/mL | Pharmaceutical Associates, Inc., 201 Delaware St., Greenville, SC 29605. |
| NDA 050526 | Staticin (erythromycin) Topical Solution, 1.5% | Bristol-Myers Squibb Co. |

TABLE 1—Continued

| Application No. | Drug | Applicant |
|---|---|---|
| NDA 050687 | Banan (cefpodoxime proxetil) Tablets, 100 mg and 200 mg. | Daiichi Sankyo, Inc., 399 Thornall St., 11th Floor, Edison, NJ 08837. |
| NDA 050688 | Banan (cefpodoxime proxetil) Granules for Oral Suspension, 50 mg/5 mL and 100 mg/5 mL. | Do. |
| ANDA 064098 | Amikacin Sulfate Injection USP, 250 mg (base)/mL | Hospira, Inc., 275 North Field Dr., Bldg. H2–2, Lake Forest, IL 60045. |
| ANDA 064106 | Mitomycin for Injection USP, 20 mg Vial | Do. |
| ANDA 070505 | Metoclopramide Injection USP, 5 mg/mL | Do. |
| ANDA 070506 | Metoclopramide Injection USP, 5 mg/mL | Do. |
| ANDA 070566 | Nitropress (sodium nitroprusside for Injection USP), 50 mg. | Do. |
| ANDA 071015 | Haloperidol Oral Solution USP, 2 mg/mL | Teva Pharmaceuticals USA, 1090 Horsham Rd., P.O. Box 1090, North Wales, PA 19454. |
| ANDA 071554 | Thiothixene HCl Oral Solution USP, 5 mg/mL | Do. |
| ANDA 073058 | Fluphenazine HCl Oral Solution USP, 5 mg/mL | Do. |
| ANDA 073479 | Pentamidine Isethionate for Injection, 300 mg Vial | Hospira, Inc. |
| ANDA 074636 | Iopamidol Injection USP, 41%, 51%, 61%, 76% | Do. |
| ANDA 074898 | Iopamidol Injection USP, 41%, 51%, 61%, 76% | Do. |
| ANDA 075065 | Acyclovir Sodium for Injection | Do. |
| ANDA 075176 | Haloperidol Decanoate Injection, 50 mg/mL and 100 mg/mL. | Do. |
| ANDA 075409 | Midazolam HCl Injection, 1 mg (base)/mL and 5 mg (base)/mL. | Do. |
| ANDA 075884 | Milrinone Lactate Injection, 1 mg/mL | Do. |
| ANDA 076306 | Topiramate Tablets, 25 mg, 50 mg, 100 mg, and 200 mg. | Roxane Laboratories, Inc., 1809 Wilson Rd., Columbus, OH 43228. |
| ANDA 077138 | Ciprofloxacin Injection USP in 5% Dextrose Injection | Teva Pharmaceuticals USA. |
| ANDA 077223 | Terbinafine HCl Tablets, 250 mg (base) | Roxane Laboratories, Inc. |
| ANDA 077784 | Risperidone Tablets, 0.25 mg, 0.5 mg, 1 mg, 2 mg, 3 mg, and 4 mg. | Ratiopharm Inc., c/o Columbia Pharma Consulting Services Inc., 490 Northwest Datewood Dr., Suite 400, Issaquah, WA 98027. |
| ANDA 078241 | Sumatriptan Succinate Tablets, 25 mg, 50 mg, and 100 mg (base). | Roxane Laboratories, Inc. |
| ANDA 078318 | Sumatriptan Injection, 4 mg (base)/0.5 mL and 6 mg (base)/0.5 mL. | TEVA Parenteral Medicines, Inc., 19 Hughes, Irvine, CA 92618. |
| ANDA 078416 | Prednisolone Sodium Phosphate Oral Solution, 5 mg (base)/5 mL. | Vintage Pharmaceuticals, 120 Vintage Dr., Huntsville, AL 35811. |
| ANDA 078517 | Venlafaxine HCl Tablets, 25 mg (base), 37.5 mg (base), 50 mg (base), 75 mg (base), and 100 mg (base). | PLIVA Hrvatska d.o.o., c/o Barr Laboratories, Inc., 400 Chestnut Ridge Rd., Woodcliff Lake, NJ 07677 |
| ANDA 080997 | Succinylcholine Chloride Injection USP, 20 mg/mL | Organon USA Inc. |
| ANDA 081125 | Dexamethasone Sodium Phosphate Injection USP, 4 mg/mL. | TEVA Parenteral Medicines, Inc., 19 Hughes, Irvine, CA 92618. |
| ANDA 081126 | Dexamethasone Sodium Phosphate Injection USP | Do. |
| ANDA 081298 | Chlorzoxazone Tablets, 250 mg | Ranbaxy Inc., U.S. Agent for Ohm, 600 College Rd. East, Princeton, NJ 08540. |
| ANDA 081299 | Chlorzoxazone Tablets, 500 mg | Do. |
| ANDA 081310 | Fluphenazine HCl Elixir USP, 2.5 mg/5 mL | Teva Pharmaceuticals USA. |
| ANDA 087005 | Trichlormethiazide Tablets, 4 mg | Par Pharmaceutical, Inc., One Ram Ridge Rd., Spring Valley, NY 10977. |
| ANDA 087007 | Trichlormethiazide Tablets, 2 mg | Do. |
| ANDA 087032 | Chlorpromazine HCl Oral Concentrate USP, 30 mg/mL | Morton Grove Pharmaceuticals, Inc., U.S. Agent for Wockhardt EU Operations (Swiss) AG, 6451 West Main St., Morton Grove, IL 60053. |
| ANDA 087053 | Chlorpromazine HCl Oral Concentrate USP, 100 mg/mL. | Do. |
| ANDA 087406 | Oxycodone and Acetaminophen Tablets USP, 5 mg/325 mg. | Barr Laboratories, Inc., 400 Chestnut Ridge Rd., Woodcliff Lake, NJ 07677. |
| ANDA 087585 | Potassium Chloride for Injection Concentrate USP, 2 mEq/mL. | Luitpold Pharmaceuticals, Inc., One Luitpold Dr., P.O. Box 9001, Shirley, NY 11967. |
| ANDA 088143 | Trifluoperazine Oral Solution USP, 10 mg/mL | Morton Grove Pharmaceuticals, Inc., U.S. Agent for Wockhardt EU Operations (Swiss) AG. |
| ANDA 088194 | Thioridazine HCl Tablets USP, 50 mg | Ivax Pharmaceuticals, Inc., Subsidiary of Teva Pharmaceuticals USA, 400 Chestnut Ridge Rd., Woodcliff Lake, NJ 07677. |
| ANDA 088227 | Thioridazine HCl Oral Solution USP (Concentrate), 100 mg/mL. | Morton Grove Pharmaceuticals, Inc., U.S. Agent for Wockhardt EU Operations (Swiss) AG. |
| ANDA 088258 | Thioridazine HCl Oral Solution USP (Concentrate), 30 mg/mL. | Do. |
| ANDA 088270 | Thioridazine HCl Tablets USP, 10 mg | Ivax Pharmaceuticals, Inc., Subsidiary of Teva Pharmaceuticals USA. |
| ANDA 088271 | Thioridazine HCl Tablets USP, 15 mg | Do. |

TABLE 1—Continued

| Application No. | Drug | Applicant |
|---|---|---|
| ANDA 088272 | Thioridazine HCl Tablets USP, 25 mg | Do. |
| ANDA 088273 | Thioridazine HCl Tablets USP, 100 mg | Do. |
| ANDA 088456 | Thioridazine HCl Tablets USP, 100 mg | Teva Pharmaceuticals USA. |
| ANDA 088493 | Thioridazine HCl Tablets USP, 10 mg | Do. |
| ANDA 088850 | Hydroflumethiazide Tablets USP, 50 mg | Par Pharmaceutical, Inc. |
| ANDA 088907 | Reserpine and Hydroflumethiazide Tablets, 0.125 mg/50 mg. | Do. |
| ANDA 088933 | Sulfinpyrazone Tablets, 100 mg | Do. |
| ANDA 088934 | Sulfinpyrazone Capsules USP, 200 mg | Do. |
| ANDA 089135 | Methyclothiazide Tablets, 2.5 mg | Do. |
| ANDA 089136 | Methyclothiazide Tablets, 5 mg | Do. |
| ANDA 089173 | A–MethaPred (methylprednisolone sodium succinate for injection USP), 500 mg (base)/Vial. | Hospira, Inc. |
| ANDA 089174 | A–MethaPred (methylprednisolone sodium succinate for injection USP), 1 gram (base)/Vial. | Do. |
| ANDA 089207 | Methylprednisolone Tablets USP, 16 mg | Par Pharmaceutical, Inc. |
| ANDA 089208 | Methylprednisolone Tablets USP, 24 mg | Do. |
| ANDA 089209 | Methylprednisolone Tablets USP, 32 mg | Do. |
| ANDA 089457 | Perphenazine Tablets USP, 16 mg | Ivax Pharmaceuticals, Inc., Subsidiary of Teva Pharmaceuticals USA. |
| ANDA 089602 | Thioridazine HCl Oral Solution USP, 30 mg/mL | Teva Pharmaceuticals USA. |
| ANDA 089603 | Thioridazine HCl Oral Solution USP, 100 mg/mL | Do. |
| ANDA 089624 | Reversol (edrophonium chloride injection USP), 10 mg/mL). | Organon USA Inc. |
| ANDA 089657 | Methocarbamol and Aspirin Tablets, 400 mg/325 mg | Par Pharmaceutical, Inc. |
| ANDA 089708 | Perphenazine Tablets USP, 4 mg | Ivax Pharmaceuticals, Inc., Subsidiary of Teva Pharmaceuticals USA. |

[1] This product included an oral pressurized metered-dose inhaler that contained chlorofluorocarbons (CFCs) as a propellant. CFCs may no longer be used as a propellant for any albuterol or salmeterol metered-dose inhalers (see 70 FR 17168, April 4, 2005; 71 FR 70870, December 7, 2006).

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research, by the Commissioner, approval of the applications listed in table 1 in this document, and all amendments and supplements thereto, is hereby withdrawn, effective April 18, 2012. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the FD&C Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in table 1 in this document that are in inventory on the date that this notice becomes effective (see the **DATES** section) may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: February 16, 2012.

**Janet Woodcock,**

*Director, Center for Drug Evaluation and Research.*

[FR Doc. 2012–6591 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1984.

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

**Proposed Project: Enrollment and Re-Certification of Entities in the 340B Drug Pricing Program (OMB No. 0915–0327)—Revision**

Section 602 of Public Law 102–585, the Veterans Health Care Act of 1992, enacted section 340B of the Public Health Service Act (PHS Act) ''Limitation on Prices of Drugs Purchased by Covered Entities.'' Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed an amount determined under a statutory formula.

Covered entities which choose to participate in the section 340B Drug Pricing Program must comply with the requirements of section 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate.

Further, section 340B(a)(5)(B) prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the entity.

In response to the statutory mandate of section 340B(a)(9) of the PHS Act to notify manufacturers of the identities of covered entities and the mandate of section 340B(a)(5)(A)(ii) to establish a mechanism to ensure against duplicate discounts and the ongoing responsibility to administer the 340B Drug Pricing Program while maintaining efficiency, transparency and integrity, the HRSA Office of Pharmacy Affairs (OPA) developed a process of registration of covered entities to enable it to address those mandates.

**Enrollment/Registration**

To enroll and certify the eligible federally funded grantees and other safety net health care providers, OPA requires entities to submit administrative information (*e.g.,* shipping and billing arrangements, Medicaid participation), certifying information and signatures from appropriate grantee level or entity level authorizing officials and state/local government representatives. The purpose of this registration information is to determine eligibility for the 340B Drug Pricing Program. This information is entered into the 340B database by entities and verified by OPA staff according to 340B Drug Pricing Program requirements. Accurate records are critical to implementation of the 340B Drug Pricing Program, especially to prevent drug diversion to non-eligible individuals as well as duplicate discounts from manufacturers. To maintain accurate records, OPA also requires that entities recertify eligibility annually and that they notify the program of updates to any administrative information that they submitted when initially enrolling into the program. The burden requirement for these processes is low for recertification and minimal for submitting change requests.

**Contract Pharmacy Self-Certification**

In order to ensure that drug manufacturers and drug wholesalers recognize contract pharmacy arrangements, covered entities that elect to utilize one or more contract pharmacies are also required to submit general information about the arrangements and certifications that signed agreements are in place with those contract pharmacies.

The annual estimate of burden is as follows:

| Reporting requirement | Number of respondents | Responses per respondent | Total responses | Hours per response | Total burden hours |
|---|---|---|---|---|---|
| **Hospital Enrollment, Additions & Recertifications** | | | | | |
| 340B Program Registrations & Certifications for Hospitals | 546 | 1 | 546 | 2.0 | 1092 |
| Certifications to Enroll Hospital Outpatient Facilities | 606 | 1 | 606 | .50 | 303 |
| Hospital Annual Recertifications | 4842 | 1 | 4842 | .50 | 2421 |
| **Registrations and Recertifications for Entities Other Than Hospitals** | | | | | |
| 340B Registrations for Community Health Centers | 253 | 1 | 253 | 1.0 | 253 |
| 340B Registrations for Family Planning Programs, STD/TB Clinics and Various Other Eligible Entity Types | 353 | 1 | 353 | 1.0 | 353 |
| Community Health Center Annual Recertifications | 4507 | 1 | 4507 | .50 | 2253.5 |
| Family Planning Annual Recertifications | 3879 | 1 | 3879 | .50 | 1939.5 |
| STD & TB Annual Recertifications | 2754 | 1 | 2754 | .50 | 1377 |
| Annual Recertification for Entities other than Hospitals, Community Health Centers, Family Planning, STD or TB Clinics | 1174 | 1 | 1174 | .50 | 587 |
| **Other Information Collections** | | | | | |
| Submission of Administrative Changes for any Covered Entity | 2500 | 1 | 2500 | .50 | 1250 |
| Submission of Administrative Changes for any Manufacturer | 350 | 1 | 350 | .50 | 175 |
| **Contracted Pharmacy Services Registration & Recertifications** | | | | | |
| Contracted Pharmacy Services Registration | 2500 | 1 | 2500 | 1.0 | 2500 |
| Total | 24,264 | | 24,264 | | 14,504 |

Email comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 13, 2012.

**Reva Harris,**

*Acting Director, Division of Policy and Information Coordination.*

[FR Doc. 2012–6540 Filed 3–16–12; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Public Hearing

**SUMMARY:** The National Institutes of Health (NIH) will hold a public meeting on Thursday, April 19, 2012, from 6:30–9:30 p.m. at Roxbury Community College, Main Stage, 1234 Columbus Avenue, Boston, MA 02120. The

purpose of the meeting is to solicit public comments regarding the Draft Supplementary Risk Assessment for the National Emerging Infectious Diseases Laboratories. Comments provided during the meeting, as well as those received during the public comment period, will be considered in NIH's preparation of the Final Supplementary Risk Assessment for the National Emerging Infectious Diseases Laboratories. Individuals wishing to provide oral comments at the meeting must sign-in prior to the start of the meeting. Sign-in will begin at 5:30 p.m. In order to ensure everyone has the opportunity to speak, comments must be limited to no longer than three minutes. An agenda, slides for the meeting, and the draft supplementary risk assessment will be available at: *http://nihblueribbonpanel-bumc-neidl.od.nih.gov/meetings.asp.* This public meeting is part of the 67-day public comment period initiated with the publication of a Notice of Availability in the **Federal Register** on February 24, 2012. The 67-day comment period began on February 24, 2012 and will end on May 1, 2012. Written comments can also be sent to: National Institutes of Health, ATTN: NEIDL Risk Assessment, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, or emailed to *NIH_BRP@od.nih.gov.*

For further information concerning this meeting, please contact Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892; telephone: 301–496–9838; email: *BRP_NIH@od.nih.gov.* Requests for reasonable accommodations or translation services should be made to *BRP_NIH@od.nih.gov* no later than April 12, 2012.

Dated: March 7, 2012.

**Kelly Fennington,**

*Senior Health Policy Analyst, Office of Science Policy, National Institutes of Health.*

[FR Doc. 2012–6567 Filed 3–16–12; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Cancer Institute Special Emphasis Panel, Clinical Assay Development Program (CADP), April 10, 2012, 8 a.m. to 4 p.m., National Institutes of Health, 6001 Executive Boulevard, Room C, Rockville, MD 20852 which was published in the **Federal Register** on February 29, 2012, 77 FR 12318.

The meeting has been cancelled.

Dated: March 12, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012–6596 Filed 3–16–12; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2012–0149]**

### Information Collection Requests to Office of Management and Budget.

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0095, Oil and Hazardous Material Pollution Prevention and Safety Records, Equivalents/Alternatives and Exemptions. Additionally, the U.S. Coast Guard requests approval of a revision to the following collections of information: 1625–0099, Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels and 1625–0103, Mandatory Ship Reporting System for the Northeast and Southeast Coasts of the United States. Our ICRs describe the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before May 18, 2012.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2012–0149] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *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.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–611), ATTN PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2100 2ND ST SW STOP 7101, WASHINGTON, DC 20593–7101.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the

quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval for the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2012–0149], and must be received by May 18, 2012. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

**Submitting Comments**

If you submit a comment, please include the docket number [USCG–2012–0149], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), 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 DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2012–0149'' in the ''Keyword'' box. 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 will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice 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–2012–0149'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act**

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

**Information Collection Requests**

1. *Title:* Oil and Hazardous Material Pollution Prevention and Safety Records, Equivalents/Alternatives and Exemptions.

*OMB Control Number:* 1625–0095.

*Summary:* The information is used by the Coast Guard to ensure that an oil or hazardous material requirement alternative or exemption provides an equivalent level of safety and protection from pollution.

*Need:* Under 33 U.S.C. 1321 and Executive Order 12777 the Coast Guard is authorized to prescribe regulations to prevent the discharge of oil and hazardous substances from vessels and facilities and to contain such discharges. Coast Guard regulations in 46 CFR parts 154–156 are intended to: (1) Prevent or mitigate the results of an accidental release of bulk liquid hazardous materials being transferred at waterfront facilities; (2) ensure that facilities and vessels that use vapor control systems are in compliance with the safety standards developed by the Coast Guard; (3) provide equipment and operational requirements for facilities and vessels that transfer oil or hazardous materials in bulk to or from vessels with a 250 or more barrel capacity; and (4) provide procedures for vessel or facility operators who request exemption or partial exemption from the requirements of the pollution prevention regulations.

*Forms:* None.

*Respondents:* Owners and operators of bulk oil and hazardous materials facilities and vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden remains 1,440 hours a year.

2. *Title:* Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels.

*OMB Control Number:* 1625–0099.

*Summary:* The collection of information requires passenger vessels to post two placards that contain safety and operating instructions on the use of cooking appliances that use liquefied gas or compressed natural gas.

*Need:* Title 46 U.S.C. 3306(a)(5) authorizes the Coast Guard to prescribe regulations for the use of vessel stores of a dangerous nature. These regulations are prescribed in both uninspected and inspected passenger vessel regulations.

*Forms:* None.

*Respondents:* Owners and operators of passenger vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has increased from 5,288 hours to 5,948 hours a year.

3. *Title:* Mandatory Ship Reporting System for the Northeast and Southeast Coasts of the United States.

*OMB Control Number:* 1625–0103.

*Summary:* The information is needed to reduce the number of ship collisions with endangered northern right whales. Coast Guard rules at 33 CFR part 169 establish two mandatory ship-reporting systems off the northeast and southeast coasts of the United States.

*Need:* The collection involves ships' reporting by radio to a shore-based authority when entering the area covered by the reporting system. The ship will receive, in return, information to reduce the likelihood of collisions between themselves and northern right whales—an endangered species-–in the areas established with critical-habitat designation.

*Forms:* None.

*Respondents:* Operators of certain vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has decreased from 211 hours to 200 hours a year.

Dated: March 12, 2012.

**R.E. Day,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.*

[FR Doc. 2012–6491 Filed 3–16–12; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2012–0164]**

### Commercial Fishing Safety Advisory Committee; Vacancies

**AGENCY:** Coast Guard, DHS.

**ACTION:** Request for applications.

**SUMMARY:** The Coast Guard seeks applications for membership on the Commercial Fishing Safety Advisory Committee (CFSAC). The CFSAC provides advice and makes recommendations to the Coast Guard and the Department of Homeland Security on matters relating to the safe operation of commercial fishing industry vessels.

**DATES:** Applicants should submit a cover letter and resume in time to reach the Designated Federal Officer on or before April 30, 2012.

**ADDRESSES:** Applicants should send their cover letter and resume to the following address: Commandant (CG–543)/CFSAC, U.S. Coast Guard, 2100 Second Street SW., Mail Stop 7581, Washington, DC 20593–7581. This notice is also available on the Internet at *http://www.FishSafe.info.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack Kemerer of the Coast Guard by telephone at 202–372–1249, fax 202–372–1917, or email: *jack.a.kemerer@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The CFSAC is a federal advisory committee under the *Federal Advisory Committee Act* (FACA), 5 U.S.C. App. (Pub. L. 92–463). The Coast Guard chartered the CFSAC to provide advice on issues related to the safety of commercial fishing industry vessels regulated under Chapter 45 of Title 46, United States Code, which includes uninspected fishing vessels, fish processing vessels, and fish tender vessels. (*See 46 U.S.C. 4508.*)

The CFSAC meets at least once a year. It may also meet for other extraordinary purposes. Its subcommittees may gather throughout the year to prepare for meetings or develop proposals for the committee as a whole to address specific problems.

The Coast Guard will consider applications for six positions that expire or become vacant in October 2012 in the following categories: (a) Commercial Fishing Industry (*four* positions); (b) General Public, a person familiar with issues affecting fishing communities and families of fishermen (*one* position); (c) naval architects and marine engineers (*one* position).

The CFSAC consists of 18 members with particular expertise, knowledge, and experience regarding commercial fishing industry as follows:

(a) Ten members who shall represent the commercial fishing industry and who—(1) reflect a regional and representational balance; and (2) have experience in the operation of vessels to which Chapter 45 of Title 46, U.S.C. applies, or as crew member or processing line worker on a fish processing vessel;

(b) Three members who shall represent the general public, including, whenever possible—(1) an independent expert or consultant in maritime safety; (2) a marine surveyor who provides services to vessels to which Chapter 45 of Title 46, U.S.C. applies; and (3) a person familiar with issues affecting fishing communities and families of fishermen;

(c) One member each of whom shall represent—(1) naval architects and marine engineers; (2) manufacturers of equipment for vessels to which Chapter 45 of Title 46, U.S.C. applies; (3) education or training professionals related to fishing vessel, fish processing vessel, fish tender vessel safety or personnel qualifications; (4) underwriters that insure vessels to which Chapter 45 of Title 46, U.S.C. applies; and (5) owners of vessels to which Chapter 45 of title 46, U.S.C. applies.

Each member serves for a term of three years. An individual may be appointed to a term as a member more than once. All members serve at their own expense and receive no salary from the Federal Government, although travel reimbursement and per diem may be provided for called meetings. Registered lobbyists are not eligible to serve on Federal Advisory Committees. Registered lobbyists are lobbyists required to comply with provisions contained in the *Lobbying Disclosure Act,* Title 2, United States Code, Section 1603.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are selected as a member from the general public, you will be appointed and serve as a Special Government Employee (SGE) as defined in Section 202(a) of Title 18, United States Code. As a candidate for appointment as a SGE, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). A completed OGE Form 450 is not releasable to the public except under an order issued by a Federal court or as otherwise provided under the *Privacy Act* (5 U.S.C. 552a). Only the Designated Agency Ethics Official (DAEO) or the DAEO's designate may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*), or by contacting the individual listed above. Applications which are not accompanied by a completed OGE Form 450 will not be considered.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Mr. Jack Kemerer, Alternate Designated Federal Officer (ADFO) of CFSAC at Commandant (CG–543)/CFSAC, U.S. Coast Guard, 2100 Second Street SW., Mail Stop 7581, Washington, DC 20593–7581. To visit our online docket, go to *http://www.regulations.gov,* enter the docket number for this notice (USCG–2012–0164) in the Search box, and click ''Go''. Please do not post your resume on this site. During the vetting process, applicants may be asked to provide date of birth and social security number.

Dated: March 12, 2012.

**Paul F. Thomas,**

*Captain, U.S. Coast Guard, Acting Director of Prevention Policy.*

[FR Doc. 2012–6492 Filed 3–16–12; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4057–DR; Docket ID FEMA–2012–0002]**

### Kentucky; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA–4057–DR), dated March 6, 2012, and related determinations.

**DATES:** *Effective Date:* March 9, 2012.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency

Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 6, 2012.

Magoffin and Wolfe Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2012–6481 Filed 3–16–12; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4055–DR; Docket ID FEMA–2012–0002]**

### Oregon; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Oregon (FEMA–4055–DR), dated March 2, 2012, and related determinations.

**DATES:** *Effective Date:* March 2, 2012.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 2, 2012, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Oregon resulting from a severe winter storm, flooding, landslides, and mudslides during the period of January 17–21, 2012, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Oregon.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dolph A. Diemont, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oregon have been designated as adversely affected by this major disaster:

Benton, Columbia, Coos, Curry, Douglas, Hood River, Lane, Lincoln, Linn, Marion, Polk, and Tillamook Counties for Public Assistance.

All counties within the State of Oregon are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2012–6480 Filed 3–16–12; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### Agency Information Collection Activities: Form I–589; Extension of an Existing Information Collection; Comment Request

**ACTION:** 60-Day Notice of Information Collection Under Review; Form I–589, Application for Asylum and for Withholding for Removal; OMB Control No. 1615–0067.

The Department 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 in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 18, 2012.

During this 60 day period, USCIS will be evaluating whether to revise the Form I–589. Should USCIS decide to revise Form I–589 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–589.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Laura Dawkins, Acting Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, Clearance Office, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–0997 or via email at *uscisfrcomment@dhs.gov.* When submitting comments by email, please make sure to add OMB Control No. 1615–0067 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should

address one or more of the following four points:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Asylum and for Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–589; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–589 is necessary to determine whether an alien applying for asylum and/or withholding of removal in the United States is classified as refugee, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 46,000 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 552,000 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/*.

We may also be contacted at: USCIS, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: March 14, 2012.

**Laura Dawkins,**

*Acting Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–6597 Filed 3–16–12; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### U.S. Customs and Border Protection 2012 West Coast Trade Symposium: ''Harmonizing Trade for a Stronger Economy''

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of trade symposium.

**SUMMARY:** This year, U.S. Customs and Border Protection (CBP) will be holding two trade symposia. One trade symposium will be held on the West Coast in May and the other will be on the East Coast later in the year. This document announces that CBP will convene the 2012 West Coast Trade Symposium to discuss issues relating to the agency's role in international trade initiatives and programs. This year marks our twelfth year hosting trade symposia. Members of the international trade and transportation communities and other interested parties on the West Coast are encouraged to attend.

**DATES:** Thursday, May 10, 2012, 8:30 a.m. to 3 p.m.

**ADDRESSES:** The CBP 2012 West Coast Trade Symposium will be held at the Long Beach Convention and Entertainment Center in the Grand Ballroom at 300 E. Ocean Boulevard, Long Beach, CA 90802.

**FOR FURTHER INFORMATION CONTACT:** The Office of Trade Relations at (202) 344–1440, or at *tradeevents@dhs.gov.* To obtain the latest information on the Symposium and to register online, visit the CBP Web site at *http://www.cbp.gov.* Requests for special needs should be sent to the Office of Trade Relations at *tradeevents@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** CBP will be holding two trade symposia this year, one on the West Coast and one on the East Coast. This year's theme for the Trade Symposium is ''Harmonizing Trade for a Stronger Economy.'' This document announces that the West Coast trade symposium will be held in Long Beach, California on May 10, 2012. The format of this year's West Coast symposium will be held in a general session; there will be no breakout sessions. Discussions will be held regarding CBP's role in international trade initiatives and programs.

The agenda for the 2012 West Coast Trade Symposium and the keynote speakers will be announced at a later date on the CBP Web site (*http://www.cbp.gov*). The registration fee is $225.00 per person. Interested parties are requested to register early, as space is limited. Registration will open to the public on or about March 19, 2012. All registrations must be made on-line at the CBP Web site (*http://www.cbp.gov*) and will be confirmed with payment by credit card only.

Due to the overwhelming interest to attend past symposia, each company is requested to limit their company's registrations to no more than three participants, in order to afford equal representation from all members of the international trade community. If a company exceeds the limitation, any additional names submitted for registration will automatically be placed on the waiting list.

As an alternative to on-site attendance, access to live webcasting of the event will be available for a fee of $35.00. This includes the broadcast and historical access to recorded sessions for a period of time after the event. Registration for this is on-line as well.

Please note that the 2012 East Coast Trade Symposium will be held later in the year.

Hotel accommodations will be announced at a later date on the CBP Web site (*http://www.cbp.gov*).

Dated: March 14, 2012.

**Maria Luisa O'Connell,**

*Senior Advisor for Trade and Public Relations, Office of Trade Relations.*

[FR Doc. 2012–6589 Filed 3–16–12; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### [Docket No. FR–5603–N–18]

### Notice of Submission of Proposed Information Collection to OMB Public/Private Partnerships for the Mixed-Finance Development of Public Housing Units

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The 1998 Public Housing Reform Act allowed the Mixed-Finance development of public housing units. This meant that Public Housing Authorities (PHAs) could create public housing projects using public housing grant or capital funds and non-HUD sources of funds, subject to HUD's approval. This Information Collection pertains to the information that HUD collects to perform due diligence in order to approve the mixed-finance development of public housing prior to a financial closing and the start of construction or rehabilitation activities. Applicants describe ownership, the type, size, and number of units, construction schedule, construction and permanent financing, property management, how public housing operating subsidy will be provided to the project and other operation plans. New developments may be made up of a variety of housing types: rental, homeownership, private, subsidized, and public housing. These new communities are built for residents with a wide range of incomes, and are designed to fit into the surrounding community.

**DATES:** Comments Due Date: April 18, 2012.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–NEW) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*, fax: 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* Public/Private Partnerships for the Mixed-Finance Development of Public Housing Units.

*OMB Approval Number:* 2577–NEW.

*Form Numbers:* HUD–50030, HUD–50029, HUD–50150, HUD–50151, HUD–50154, HUD–50155.

*Description of the Need for the Information and its Proposed Use:* The 1998 Public Housing Reform Act allowed the Mixed-Finance development of public housing units. This meant that Public Housing Authorities (PHAs) could create public housing projects using public housing grant or capital funds and non-HUD sources of funds, subject to HUD's approval. This Information Collection pertains to the information that HUD collects to perform due diligence in order to approve the mixed-finance development of public housing prior to a financial closing and the start of construction or rehabilitation activities. Applicants describe ownership, the type, size, and number of units, construction schedule, construction and permanent financing, property management, how public housing operating subsidy will be provided to the project and other operation plans. New developments may be made up of a variety of housing types: rental, homeownership, private, subsidized, and public housing. These new communities are built for residents with a wide range of incomes, and are designed to fit into the surrounding community.

*Frequency of Submission:* On occasion.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The estimated number of respondents is 130 annually, responding once with each housing development financial closing, with 920 annual responses. The total reporting burden is 16,995 hours.

*Total Estimated Burden Hours:* 16,995.

*Status:* Existing collection in use without an OMB control number.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 13, 2012.

**Colette Pollard,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2012–6592 Filed 3–16–12; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5603–N–20]**

## Notice of Submission of Proposed Information Collection to OMB Single Family Premium Collection Subsystem-Periodic (SFPCS–P)

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Single Family Premium Collection Subsystem-Periodic (SFPCS–P) allows the lenders to remit the Periodic Mortgage Insurance Premiums using funds obtained from the mortgagor during the collection of the monthly mortgage payment. The SFPCS–P strengthens HUD's ability to manage and process periodic single-family mortgage insurance premium collections and corrections to submitted data. It also improves data integrity for the Single Family Mortgage Insurance Program. Therefore, the FHA approved lenders use Automated Clearing House (ACH) application for all transmissions with SFPCS–P. The authority for this collection of information is specified in 24 CFR 203.264 and 24 CFR 203.269. In general, the lenders use the ACH application to remit the periodic premium payments through SFPCS–P for the required FHA insured cases and to comply with the Credit Reform Act.

**DATES:** *Comments Due Date:* April 18, 2012.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB

approval Number (2502–0536) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*, fax: 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov,* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*This notice also lists the following information:*

*Title of Proposal:* Single Family Premium Collection Subsystem-Periodic (SFPCS–P).

*OMB Approval Number:* 2502–0536.

*Form Numbers:* None.

*Description of the Need for the Information and Its Proposed Use:* The Single Family Premium Collection Subsystem-Periodic (SFPCS–P) allows the lenders to remit the Periodic Mortgage Insurance Premiums using funds obtained from the mortgagor during the collection of the monthly mortgage payment. The SFPCS–P strengthens HUD's ability to manage and process periodic single-family mortgage insurance premium collections and corrections to submitted data. It also improves data integrity for the Single Family Mortgage Insurance Program. Therefore, the FHA approved lenders use Automated Clearing House (ACH) application for all transmissions with SFPCS–P. The authority for this collection of information is specified in 24 CFR 203.264 and 24 CFR 203.269. In general, the lenders use the ACH application to remit the periodic premium payments through SFPCS–P for the required FHA insured cases and to comply with the Credit Reform Act.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The public reporting burden for this collection of information is estimated as the number of hours needed to prepare the information collection is 2,765 annually, the estimated number of respondents is 1,536 annually, the frequency of response is monthly generating 18,432 responses annually, and the estimated time per response is approximately 15 minutes. Since remittances are made through the ACH applications the periodic remittance is submitted electronically and there is no paperwork to complete and mail in.

*Status:* Existing of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended

Dated: March 13, 2012.

**Colette Pollard,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2012–6595 Filed 3–16–12; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5603–N–19]**

### Notice of Submission of Proposed Information Collection to OMB; Applications for Housing Assistance Payments; Special Claims Processing

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is an extension of a currently approved collection for submitting Applications for Housing Assistance Payments for Section 8, Rent Supplement, Rental Assistance Payment (RAP), Section 202 Project Assistance Contracts (PACs) and Section 811 and 202 Project Rental Assistance Contracts (PRACS) program units. Special Claims for damages, unpaid rent loss, and vacancy claims are available for the Section 8, Section 202 PACs, and Section 811 and Section 202 PRACS programs. Each HUD program has an assistance payments contract. These contracts indicate that HUD will make monthly assistance payments to Project Owners/Management Agents on behalf of the eligible households who reside in the assisted units. Project Owners are required to sign a certification on the Housing Owner's Certifications and Application for Housing Assistance form which states: (1) Each tenant's eligibility and assistance payments was computed in accord with HUD's regulations administrative procedures and the Contract, and are payable under the Contract; (2) The units for which assistance is being billed are decent, safe, sanitary, and occupied or available for occupancy; (3) No amount included on the bill has been previously billed or paid; (4) All facts and data on which the payment request is based are true and accurate; and (5) That no payments have been paid or will be paid from the tenant or any public or private source for units beyond that authorized by the assistance contract, or lease, unless permitted by HUD.

**DATES:** *Comments Due Date:* April 18, 2012.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0182) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*, fax: 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies

concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* Applications for Housing Assistance Payments; Special Claims Processing.

*OMB Approval Number:* 2502–0182.

*Form Numbers:* HUD–52670, HUD–52670–A Part 1, HUD–52670–A Part 2, HUD–52670–A Part 3, HUD–52670–A Part 4, HUD–52670–A Part 5, and HUD–52671–A/B/C/D.

*Description of the Need for the Information and its Proposed Use:* This is an extension of a currently approved collection for submitting Applications for Housing Assistance Payments for Section 8, Rent Supplement, Rental Assistance Payment (RAP), Section 202 Project Assistance Contracts (PACs) and Section 811 and 202 Project Rental Assistance Contracts (PRACS) program units. Special Claims for damages, unpaid rent loss, and vacancy claims are available for the Section 8, Section 202 PACs, and Section 811 and Section 202 PRACS programs. Each HUD program has an assistance payments contract. These contracts indicate that HUD will make monthly assistance payments to Project Owners/Management Agents on behalf of the eligible households who reside in the assisted units. Project Owners are required to sign a certification on the Housing Owner's Certifications and Application for Housing Assistance form which states: (1) Each tenant's eligibility and assistance payments was computed in accord with HUD's regulations administrative procedures and the Contract, and are payable under the Contract; (2) The units for which assistance is being billed are decent, safe, sanitary, and occupied or available for occupancy; (3) No amount included on the bill has been previously billed or paid; (4) All facts and data on which the payment request is based are true and accurate; and (5) That no payments have been paid or will be paid from the tenant or any public or private source for units beyond that authorized by the assistance contract, or lease, unless permitted by HUD.

*Frequency of Submission:* On occasion.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* An estimation of the annual total number of hours needed to prepare the information collection is 301,951, number of respondents is 21,787, frequency of response is 12 per annum, and the total hours per respondent is 6.65.

*Status:* Existing of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 13, 2012.

**Colette Pollard,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2012–6593 Filed 3–16–12; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

**[FF09D00000–123–FXGO1664091HCC05d]**

### Wildlife and Hunting Heritage Conservation Council

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Call for nominations.

**SUMMARY:** The Secretary of the Interior and the Secretary of Agriculture seek nominations for individuals to be considered as members of the Wildlife and Hunting Heritage Conservation Council (Council). The Council provides advice about wildlife and habitat conservation endeavors that (a) benefit wildlife resources; (b) encourage partnership among the public, sporting conservation organizations, the States, Native American tribes, and the Federal Government; and (c) benefit recreational hunting. Nominations should describe and document the proposed member's qualifications for membership to the Council, and include a resume listing their full name, address, telephone, and fax number.

**DATES:** Written nominations must be received by April 18, 2012.

**ADDRESSES:** Send nominations to Joshua Winchell, Coordinator, Wildlife and Hunting Heritage Conservation Council, Division of Program and Partnership Support, External Affairs, U.S. Fish and Wildlife Service, 4501 N. Fairfax Drive, Mailstop EA–3103, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Joshua Winchell, at address above, or by telephone at (703) 358–2639.

**SUPPLEMENTARY INFORMATION:** The Council conducts its operations in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2; FACA). It reports to the Secretary of the Interior and the Secretary of Agriculture through the Fish and Wildlife Service, in consultation with the Director of the Bureau of Land Management; the Director of the National Park Service; the Chief, U.S. Forest Service; the Chief, Natural Resources Conservation Service; and the Administrator of the Farm Service Agency. The Council functions solely as an advisory body. The Council's duties consist of, but are not limited to, providing recommendations for:

(a) Implementing the *Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;*

(b) Increasing public awareness of and support for the Wildlife Restoration Program;

(c) Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;

(d) Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;

(e) Fostering communication and coordination among State, tribal, and Federal governments; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and management organizations; and the public;

(f) Providing appropriate access to Federal lands for recreational shooting and hunting;

(g) Providing recommendations to improve implementation of Federal conservation programs that benefit wildlife, hunting, and outdoor recreation on private lands; and

(h) When requested by the Designated Federal Officer (DFO) in consultation with the Council Chairman, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups.

The Council consists of no more than 18 discretionary members. The Secretary of the Interior and the Secretary of Agriculture appoint discretionary members for 3-year terms. No individual who is currently registered as a Federal lobbyist is

eligible to serve as a member of the Council. The Secretaries will select discretionary members from among the national interest groups listed below. These members must be senior-level representatives of their organizations and/or have the ability to represent their designated constituency.

(1) State fish and wildlife resource management agencies;

(2) Wildlife and habitat conservation/management organizations;

(3) Game bird hunting organizations;

(4) Waterfowl hunting organizations;

(5) Big game hunting organizations;

(6) Sportsmen and women community at large;

(7) Archery, hunting, and/or shooting sports industry;

(8) Hunting and shooting sports outreach and education organizations;

(9) Tourism, outfitter, and/or guide industries related to hunting and/or shooting sports;

(10) Tribal resource management organizations.

The Council functions solely as an advisory body and in compliance with provisions of the FACA (5 U.S.C. Appendix 2).

*Certification:* I hereby certify that the Wildlife and Hunting Heritage Conservation Council (Council) is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior and the Department of Agriculture under 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd), and Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation.

Dated: March 6, 2012.

**Ken Salazar,**

*Secretary of the Interior.*

[FR Doc. 2012–6516 Filed 3–16–12; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Safety and Environmental Enforcement

**[Docket ID No. BSEE–2011–0002; OMB Control Number 1014–0016]**

### Information Collection Activities: Pipelines and Pipeline Rights-of-Way; Submitted for Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Bureau of Safety and Environmental Enforcement, Interior.

**ACTION:** 30-day Notice.

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), BSEE is notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under Subpart J, ''Pipelines and Pipeline Rights-of-Way.'' This notice also provides the public a second opportunity to comment on the revised paperwork burden of these regulatory requirements.

**DATES:** You must submit comments by April 18, 2012.

**ADDRESSES:** Submit comments by either fax (202) 395–5806 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1014–0016). Please provide a copy of your comments to BSEE by any of the means below.

- *Electronically:* go to *http://www.regulations.gov.* In the entry titled, ''Enter Keyword or ID,'' enter BSEE–2011–0002 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *nicole.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to: Department of the Interior; Bureau of Safety and Environmental Enforcement; Attention: Nicole Mason; 381 Elden Street, HE3313; Herndon, Virginia 20170–4817. Please reference 1014–0016 in your comment and include your name and return address.

**FOR FURTHER INFORMATION CONTACT:** Nicole Mason, Regulations and Development Branch, (703) 787–1605, to request additional information about this ICR. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review).

**SUPPLEMENTARY INFORMATION:**

*Title:* 30 CFR 250, Subpart J, Pipelines and Pipeline Rights-of-Way.

*Form:* BSEE–0149.

*OMB Control Number:* 1014–0016.

*Abstract:* The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of the Act related to mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-way (ROW), or a right-of-use and easement. Section 1334(e) authorizes the Secretary to grant ROWs through the submerged lands of the OCS for pipelines ''* * * for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, * * * including (as provided in section 1347(b) of this title) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial * * *.''

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. This authority and responsibility are among those delegated to BSEE. BSEE regulations specify cost recovery service fees for pipeline and assignment applications.

This information collection (IC) request addresses the regulations under 30 CFR 250, subpart J, on pipelines and pipeline ROWs and is considered a revision. Between the initial 60-day FR notice and now, BSEE requested and obtained OMB approval via a Notice of Action (12/12/2011) to transfer 1010–0050 to 1014–0016. This transfer was a result of the Bureau of Ocean Energy Management, Regulations and Enforcement splitting into two bureaus and some specific subpart J regulatory requirements going to both bureaus. Therefore, the program change is due to that final rulemaking (76 FR 64432) where the requirements pertaining to bonding (Form BOEM–2030; § 250.1011) have been removed from BSEE regulations and are now located in the Bureau of Ocean Energy Management regulations (30 CFR 550.1011). This collection also covers the related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify and provide additional guidance on some aspects of the regulations.

Regulations at 30 CFR part 250, subpart J, implement these statutory requirements. We use the information to ensure those activities are performed in a safe manner. BSEE needs information concerning the proposed pipeline and safety equipment, inspections and tests, and natural and manmade hazards near the proposed pipeline route. BSEE uses the information to review pipeline designs prior to approving an application for an ROW or lease term pipeline to ensure that the pipeline, as constructed, will provide for safe transportation of oil and gas and other minerals through the submerged lands

of the OCS. We review proposed pipeline routes to ensure that the pipeline would not conflict with any State requirements or unduly interfere with other OCS activities. BSEE reviews proposals for taking pipeline safety equipment out of service to ensure alternate measures are used that will properly provide for the safety of the pipeline and associated facilities (platform, etc.). We review notification of relinquishment of an ROW grant and requests to abandon pipelines to ensure that all legal obligations are met and pipelines are properly abandoned. BSEE monitors the records concerning pipeline inspections and tests to ensure safety of operations and protection of the environment and to schedule their workload to permit witnessing and inspecting operations. Information is also necessary to determine the point at which the Department of the Interior or the Department of Transportation (DOT) has regulatory responsibility for a pipeline and to be informed of the identified operator if not the same as the ROW holder.

The following form is also submitted to BSEE under subpart J:

*BSEE–0149—Assignment of Federal OCS Pipeline Right-of-Way Grant:* BSEE uses the information to track the ownership of pipeline ROWs; as well as use the information to update the corporate database that is used to determine what leases are available for a Lease Sale and the ownership of all OCS leases.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2); also under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection,'' and 30 CFR 252, ''Outer Continental Shelf (OCS) Oil and Gas Information Program.''

No items of a sensitive nature are collected. Responses are mandatory or are required to obtain or retain a benefit.

*Frequency:* On occasion, annual.

*Description of Respondents:* Potential respondents include lessees, operators, and holders of pipeline ROWs.

*Estimated Reporting and Recordkeeping Hour Burden:* The estimated annual hour burden for this information collection is a total of 55,072 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BILLING CODE 4310–VH–P

| Citation 30 CFR 250 Subpart J and related NTL(s) | Reporting & Recordkeeping Requirement | Hour Burden | Average No. of Annual Responses | Annual Burden Hours (rounded) |
|---|---|---|---|---|
| | | Non-Hour Cost Burdens* | | |
| **Lease Term (L/T) Pipeline (P/L) Applications** | | | | |
| 1000(b)(1); 1004(b)(5); 1007(a) | Submit application and all required information and notices to install new L/T P/L. | 90 | 208-new L/T P/L applications | 18,720 |
| | | $3,283 x 208 L/T P/L applications = $682,864 | | |
| 1000(b)(1); 1007(b) | Submit application and all required information and notices to modify a L/T P/L | 30 | 121 modifications | 3,630 |
| | | $1,906 x 121 L/T P/L applications = $230,626 | | |
| 1000(b)(1); | Submit an application to decommission a lease-term pipeline | 10 | 228 applications | 2,280 |
| **Subtotal** | | | **557 responses** | **24,630 hours** |
| | | | **$913,490 non-hour cost burdens** | |
| **Right of Way (ROW) P/L Applications and Grants** | | | | |
| 1000(b)(2), (d); 1004(b)(5); 1007(a); 1009(a); 1015; 1016 | Submit application and all required information and notices for new P/L ROW grant and to install a new ROW P/L. | 110 | 34-new ROW grant and P/L applications | 3,740 |
| | | $2,569 x 34 applications = $87,346 | | |
| 1000(b)(2), (3); 1007(b); 1017 | Submit application and all required information and notices to modify a P/L ROW grant and to modify an ROW P/L (includes route modifications, cessation of operations, partial relinquishments, hot taps, and new and modified accessory platforms). | 45 | 182 modifications | 8,190 |
| | | $3,865 x 182 applications = $703,430 | | |
| 1000(b)(3); 1010(h); 1017(b)(2)(ii); 1019 | Submit application and all required information and notices to relinquish P/L ROW grant. | 10 | 176 relinquishments | 1,760 |
| 1015 | Submit application and all required information and notices for a P/L ROW grant to convert a lease-term P/L to an ROW P/L. | 15 | 9 conversions | 135 |
| | | $219 x 9 applications = $1,971 | | |
| 1016 | Request opportunity to eliminate conflict when an application has been rejected. | 2 | 1 request | 2 |
| 1018 | Submit application and all required information and notices for assignment of a pipeline ROW grant using Form BSEE-0149 (burden includes approximately 30 minutes to fill out form). | 15 | 179 assignments | 2,685 |
| | | $186 x 179 P/L ROW requests = $33,294 | | |
| **Subtotal** | | | **581 responses** | **16,512 hours** |
| | | | **$826,041 non-hour cost burdens** | |

| Citation 30 CFR 250 Subpart J and related NTL(s) | Reporting & Recordkeeping Requirement | Hour Burden | Average No. of Annual Responses | Annual Burden Hours (rounded) |
|---|---|---|---|---|
| | | Non-Hour Cost Burdens* | | |
| **Notifications and Reports** | | | | |
| 1004(b)(5) | In lieu of a continuous volumetric comparison system, request substitution; submit any supporting documentation if requested/required. | 36 | 1 submittal | 36 |
| 1008(a) | Notify BSEE before constructing or relocating a pipeline. | ½ | 300 notices | 150 |
| 1008(a) | Notify BSEE before conducting a pressure test. | ½ | 400 notices | 200 |
| 1008(b) | Submit L/T P/L construction report. | 20 | 120 reports | 2,400 |
| 1008(b) | Submit ROW P/L construction report. | 20 | 110 reports | 2,200 |
| 1008(c) | Notify BSEE of any pipeline taken out of service. | ½ | 400 notices | 200 |
| 1008(d) | Notify BSEE of any pipeline safety equipment taken out of service more than 12 hours. | ½ | 2 notices | 1 |
| 1008(e) | Notify BSEE of any repair and include procedures. | 3 | 237 notices | 711 |
| | | $360 x 237 notices = $85,320 | | |
| 1008(e) | Submit repair report. | 4 | 200 reports | 800 |
| 1008(f) | Submit report of pipeline failure analysis. | ½ | 5 reports | 3 |
| 1008(g) | Submit plan of corrective action and report of any remedial action. | 15 | 5 plans/reports | 75 |
| 1008(h) | Submit the results and conclusions of pipe-to-electrolyte potential measurements. | 1 | 2,500 results | 2,500 |
| 1010(c) | Notify BSEE of any archaeological resource discovery. | 4 | 2 notices | 8 |
| 1010(d) | Notify BSEE of P/L ROW holder's name and address changes. | Not considered IC under 5 CFR 1320.3(h). | | 0 |
| **Subtotal** | | | **4,282 responses** | **9,284 hours** |
| | | | **$85,320 non-hour cost burdens** | |
| **General** | | | | |
| 1000(c)(2) | Identify in writing P/L operator on ROW if different from ROW grant holder. | Cover by applicable applications | | 0 |
| 1000(c)(3) | Mark specific point on P/L where operating responsibility transfers to transporting operator or depict transfer point on a schematic located on the facility. One-time requirement after final rule published; now part of application or construction process involving no additional burdens. | | | 0 |
| 1000(c)(4) | Petition BSEE for exceptions to general operations transfer point description. | 5 | 1 petition | 5 |
| 1000(c)(8) | Request BSEE recognize valves landward of last production facility but still located on OCS as point where BSEE regulatory authority begins (none received to date). | 1 | 1 request | 1 |

| Citation 30 CFR 250 Subpart J and related NTL(s) | Reporting & Recordkeeping Requirement | Hour Burden | Average No. of Annual Responses | Annual Burden Hours (rounded) |
|---|---|---|---|---|
| | | Non-Hour Cost Burdens* | | |
| 1000(c)(12) | Petition BSEE to continue to operate under DOT regulations upstream of last valve on last production facility (one received to date). | 40 | 1 petition | 40 |
| 1000(c)(13) | Transporting P/L operator petition to DOT and BSEE to continue to operate under BSEE regulations (none received to date) | 40 | 1 petition | 40 |
| 1004(c) | Place sign on safety equipment identified as ineffective and removed from service. | See footnote 1/ | | 0 |
| 1000-1019 | General departure and alternative compliance requests not specifically covered elsewhere in subpart J regulations. | 2 | 175 requests | 350 |
| **Subtotal** | | | **179 responses** | **436 hours** |
| | **Recordkeeping** | | | |
| 1000-1008 | Make available to BSEE design, construction, operation, maintenance, testing, and repair records on lease-term P/Ls 2/. | 5 | 130 lease-term P/L operators | 650 |
| 1005(a) | Inspect P/L routes for indication of leakage 1/, record results, maintain records 2 years 2/. | 2 per month = 24 | 130 lease-term P/L operators | 3,120 |
| 1010(g) | Make available to BSEE design, construction, operation, maintenance, testing, and repair records on P/L ROW area and improvements 2/. | 5 | 88 P/L ROW holders | 440 |
| **Subtotal** | | | **348 responses** | **4,210 hours** |
| **TOTAL HOUR BURDENS** | | | **5,947 responses** | **55,072 hours** |
| **TOTAL NON-HOUR COST BURDENS** | | | **$1,824,851 non-hour cost burdens** | |

*Estimated Reporting and Recordkeeping Non-Hour Cost Burden:* We have identified seven non-hour paperwork cost burdens for this collection. However, note that the actual service fee amounts are specified in 30 CFR 250.125, which provides a consolidated table of the service fees required under the 30 CFR 250 regulations. The non-hour cost burdens (cost recovery fees) in this IC total an estimated $1,824,851, and they are required under:

Section 250.1000(b)—New Pipeline Application (lease term)—$3,283.

Section 250.1000(b)—Pipeline Application Modification (lease term)—$1,906.

Section 250.1000(b)—Pipeline Application Modification (ROW)—$3,865.

Section 250.1008(e)—Pipeline Repair Notification—$360.

Section 250.1015(a)—Pipeline ROW Grant Application—$2,569.

Section 250.1015(a)—Pipeline Conversion from Lease term to ROW—$219.

Section 250.1018(b)—Pipeline ROW Assignment—$186.

We have not identified any other non-hour cost burdens associated with this collection of information.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

*Comments:* Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

To comply with the public consultation process, on December 5, 2011, we published a **Federal Register** notice (76 FR 75894) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

*Public Comment Procedures:* Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Acting BSEE Information Collection Clearance Officer:* Cheryl Blundon (703) 787–1607.

Dated: February 22, 2012.

**Douglas W. Morris,**

*Chief, Office of Offshore Regulatory Programs.*

[FR Doc. 2012–5944 Filed 3–16–12; 8:45 am]

**BILLING CODE 4310–VH–C**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R1–ES–2012–N026; FXES11130100000F5–123–FF01E00000]**

## Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for permits to conduct activities with the purpose of enhancing the survival of endangered species. The Endangered Species Act of 1973, as amended (Act), prohibits certain activities with respect to endangered species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing such permits.

**DATES:** To ensure consideration, please send your written comments by April 18, 2012.

**ADDRESSES:** Endangered Species Program Manager, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181. Please refer to the permit number for the application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Colleen Henson, Fish and Wildlife Biologist, at the above address or by telephone (503–231–2071) or fax (503–231–6243).

**SUPPLEMENTARY INFORMATION:**

### Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits certain activities with respect to endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for certain permits, and requires that we invite public comment before issuing these permits for endangered species.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittee to conduct activities (including take or interstate commerce) with respect to U.S. endangered or threatened species for scientific purposes or enhancement of propagation or survival. Our regulations implementing section 10(a)(1)(A) of the Act for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

### Applications Available for Review and Comment

We invite local, State, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number for the application when submitting comments.

Documents and other information submitted with these applications are available for review by request from the Endangered Species Program Manager at the address listed in the **ADDRESSES** section of this notice, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

**Permit Number: TE–64043A**

*Applicant: David Bainbridge, DVM, Verona, Illinois*

The applicant requests an interstate commerce permit to purchase nene geese (*Branta sandvicensis*) in conjunction with captive propagation for the purpose of enhancing their survival. This notification covers activities conducted by the applicant over the next 5 years.

**Permit Number: TE–66384A**

*Applicant: Idaho Department of Fish and Game, Coeur d'Alene, Idaho*

The applicant requests a permit to take (collect eggs, net and tag juveniles and adults) the Kootenai River white sturgeon (*Acipenser transmontanus*) in conjunction with spawning, recruitment, monitoring, and population studies in Boundary County, Idaho, for the purpose of enhancing the species' survival.

**Permit Number: TE–012136**

*Applicant: Oregon Department of Environmental Quality, Hillsboro, Oregon*

The permittee requests a permit amendment to take (harass by electrofishing, capture, and release) the Modoc sucker (*Catostomus microps*) in conjunction with monitoring studies in Lake County, Oregon, for the purpose of enhancing the species' survival. The permit currently covers take of Oregon chub (*Oregonichthys crameri*), Lost River sucker (*Deltistes luxatus*), and shortnose sucker (*Chasmistes brevirostris*), for which notices were published in the **Federal Register** on July 2, 1999 (64 FR 36032) and June 20, 2000 (65 FR 38297).

**Permit Number: TE–66612A**

*Applicant: Wildwood Wildlife Park, Minocqua, Wisconsin*

The applicant requests an interstate commerce permit to purchase nene geese (*Branta sandvicensis*) in conjunction with captive propagation for the purpose of enhancing their survival. This notification covers activities conducted by the applicant over the next 5 years.

### Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

**Authority**

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: March 9, 2012.

**Richard Hannan,**

*Acting Regional Director, Pacific Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2012–6533 Filed 3–16–12; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R1–R–2011–N180; 1265–0000–10137–S3]**

### Willapa National Wildlife Refuge, Pacific County, WA; Record of Decision for Final Environmental Impact Statement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of the Willapa National Wildlife Refuge final comprehensive conservation plan (CCP) and record of decision (ROD). We completed a thorough analysis of the environmental, social, and economic considerations and presented it in our Final CCP and environmental impact statement (EIS), which we released to the public on August 12, 2011. The ROD documents our decision to implement Alternative 2, as it is described in the Final CCP/EIS.

**DATES:** The Regional Director, Pacific Region, U.S. Fish and Wildlife Service, signed the ROD on September 29, 2011. We plan to begin implementation of the CCP immediately.

**ADDRESSES:** You may view or request a copy of the CCP/ROD by the following methods:

*Agency Web Site:* Download the document at: *http://www.fws.gov/willapa/CCP/*.

*Email:* *FW1PlanningComments@fws.gov.* Include ''Willapa NWR CCP/ROD'' in the subject line of the message.

*Mail:* Willapa National Wildlife Refuge, 3888 SR 101, Ilwaco, WA 98624.

*In person viewing:* Willapa National Wildlife Refuge Complex, 3888 SR 101, Ilwaco, WA 98624.

*Local Libraries:* See **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Charlie Stenvall, Project Leader, (360) 484–3482 (phone).

**SUPPLEMENTARY INFORMATION:**

**Introduction**

With this notice, we finalize the CCP process for the Refuge. We started this process through a notice of intent in the **Federal Register** on April 9, 2008 (73 FR 19238). We announced the availability of our draft and final documents in the **Federal Register** as well. Our Draft CCP/EIS was released on January 21, 2011 (76 FR 3922), and our Final CCP/EIS was released on August 12, 2011 (76 FR 50247).

The Refuge was established in 1937 to protect migrating and wintering populations of brant, waterfowl, shorebirds, and other migratory birds, and for conservation purposes. It encompasses over 16,000 acres of tidelands, temperate rainforest, ocean beaches, sand dunes, rivers, and small streams. Remnants of old growth coastal cedar forest and habitats for spawning wild salmon, migrating shorebirds, and threatened and endangered species, such as the western snowy plover and marbled murrelet, are preserved on the Refuge.

We evaluated three alternatives for managing the Refuge's resources in the Final CCP/EIS, identified Alternative 2 as our preferred alternative, and completed a thorough analysis of environmental, social, and economic considerations. The ROD documents our selection of Alternative 2 for implementation. Alternative 2 is the foundation of our CCP. The CCP will guide our management and administration of the Refuge for the next 15 years. In accordance with National Environmental Policy Act and its implementing regulations (40 CFR 1506.6(b)), this notice announces the availability of our CCP/ROD.

**Background**

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

**CCP Alternatives and Selected Alternative**

We identified management issues in our Draft and Final CCP/EIS. To address these issues, we developed and evaluated three alternatives. Alternative 1 is our no-action alternative; under it, current Refuge management programs would continue. Under Alternative 2, our preferred alternative, current management would continue and a number of compatible improvements to our wildlife, habitat, biodiversity, and visitor services management activities would be implemented. Under Alternative 3, we would continue current Refuge management programs, and some improvements to wildlife, habitat, and visitor services management would occur, but to a lesser degree than under Alternative 2.

After considering public comments, we selected Alternative 2, as it is described in the Final CCP/EIS, for implementation. Alternative 2 will best achieve Refuge purposes, and contribute toward the mission of the National Wildlife Refuge System, consistent with the sound principles of fish and wildlife science and conservation, legal mandates, and Service policies. Current wildlife and habitat management will continue under Alternative 2, including maintaining freshwater wetlands on the Tarlatt Unit and implementing our forest management plan. The following improvements will be implemented over time.

- The Refuge's intensively managed pastures and impoundments will be restored to historic estuarine conditions, increasing open water, intertidal flats, and salt marsh habitats by 621 acres.
- Avian and mammalian predators on the Leadbetter Point Unit will be controlled as necessary, to help meet western snowy plover population recovery goals.
- We will manage 93 acres of short-grass fields as foraging habitat for Canada geese, elk, and other wildlife, on the Riekkola Unit. Grassland restoration will include establishing the early-blue violet host plant on 33 acres, which will serve the future reintroduction of the endangered Oregon silverspot butterfly.
- We will expand the approved Refuge acquisition boundary by 6,809 acres in the Nemah, Naselle, South Bay, and East Hills areas, and divest the Shoalwater and Wheaton Units (941 acres) from the Refuge.
- We will develop an interpretive trail and observation deck along the South Bay that will tie into our proposed Tarlatt Unit visitor/administrative facility.
- After the proposed estuarine restoration is completed, we will

expand the waterfowl hunting area to 5,570 acres.

• We will provide an additional 100 acres, and develop three blinds for goose hunting, including a barrier-free blind. Two blinds for waterfowl hunting, including a barrier-free blind, will also be developed. Walk-in hunters will access the blinds on a first-come-first-served basis.

• We will develop a year-round cartop boat launch, parking area, and 0.6-mile Porter Point Trail, to access the South Bay.

• A special-permit elk hunt is planned on the Leadbetter Point Unit. Elk and deer hunting are proposed during State seasons on the South Bay and East Hills Units.

**Public Availability of Documents**

In addition to options listed under **ADDRESSES**, you can view our CCP/ROD at the following libraries.

• Ilwaco Timberland Library, 158 1st Ave. North, Ilwaco, WA 98624.

• South Bend Timberland Library, 1216 West 1st St., South Bend, WA 98586.

• Ocean Park Timberland Library, 1308 256th Place, Ocean Park, WA 98640.

• Astoria Public Library, 450 10th St., Astoria, OR 97103.

Dated: March 7, 2012.

**Richard R. Hannan,**

*Acting Regional Director, Pacific Region, Portland, Oregon.*

[FR Doc. 2012–6532 Filed 3–16–12; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R7–R–2011–N273; FXRS12650700000U4–123–FF07R06000]**

### Draft Environmental Impact Statement; Izembek National Wildlife Refuge Land Exchange/Road Corridor, Cold Bay, AL

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and request for comments; announcement of public meetings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental impact statement (DEIS) for the Izembek National Wildlife Refuge proposed land exchange/road corridor for public review and comment. In the DEIS, we describe the purpose and need, the proposed action, alternatives, and impact analysis for the proposed land exchange/road corridor of certain lands owned by the United States and managed by the Service, certain lands owned by the State of Alaska, and certain lands owned by the King Cove Corporation. The DEIS also evaluates a proposed road corridor through the Izembek National Wildlife Refuge and the Izembek Wilderness Area.

**DATES:** To ensure consideration, please send your written comments by May 18, 2012. We will hold public meetings in the five communities within and near the Refuge, and also in the city of Anchorage, in Alaska. We will announce these upcoming public meetings in local news media.

**ADDRESSES:** You may submit comments or requests for copies or more information by any of the following methods. You may request a summary of the DEIS, or a CD–ROM containing the summary and full DEIS.

*Agency Web Site:* Download a copy of the summary or full DEIS document at *http://izembek.fws.gov/EIS.htm.*

*Email: izembek_eis@fws.gov;* include ''Izembek National Wildlife Refuge DEIS'' in the subject line of the message.

*Fax:* Attn: Stephanie Brady, Project Team Leader, (907) 786–3965.

*U.S. Mail:* Stephanie Brady, Project Team Leader, U.S. Fish and Wildlife Service, 1011 East Tudor Rd., MS–231, Anchorage, AK 99503.

*In-Person Pickup or Drop-off:* You may pick up a copy or drop off comments during regular business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Brady, (907) 786–3357, or at the addresses above.

**SUPPLEMENTARY INFORMATION:**

**Introduction**

With this notice, we continue the EIS process for the Izembek National Wildlife Refuge land exchange/road corridor proposal. We started this process with notices of intent in the **Federal Register** (74 FR 39336; August 6, 2009; 75 FR 8396; February 24, 2010), indicating the beginning of the scoping period and publishing the dates and locations of the scoping meetings.

The Izembek National Wildlife Refuge (417,533 acres) and the North Creek (8,452 acres) and Pavlof (1,447,264 acres) units of the Alaska Peninsula National Wildlife Refuge are located at the westernmost tip of the Alaska Peninsula. To the north of the Izembek Refuge is the Bering Sea; to the south is the Pacific Ocean. The Alaska Peninsula is dominated by the rugged Aleutian Range, part of the Aleutian arc chain of volcanoes. Landforms include mountains, active volcanoes, U-shaped valleys, glacial moraines, low tundra wetlands, lakes, sand dunes, and lagoons. Elevations range from sea level to the 9,372-foot Shishaldin Volcano. Shishaldin Volcano is a designated National Natural Landmark. Alaska Maritime National Wildlife Refuge stretches from the Arctic Ocean to the southeast panhandle of Alaska and protects breeding habitat for seabirds, marine mammals, and other wildlife on more than 2,500 islands, spires, rocks, and coastal headlands.

**Background**

On December 6, 1960, Public Land Order 2216 established the 498,000-acre Izembek National Wildlife Range, which included Izembek Lagoon and its entire watershed near the tip of the Alaska Peninsula as ''a refuge, breeding ground and management area for all forms of wildlife.'' Eighty-four thousand, two hundred acres of this national wildlife range, including Izembek Lagoon, are state lands under the Submerged Lands Act, 43 U.S.C. 1312. The State of Alaska established the Izembek State Game Refuge to continue protecting the rare resources of Izembek Lagoon in 1972. In December 1980, the Alaska National Interest Lands Conservation Act (ANILCA; Pub. L. 96–487) was enacted. Section 303(3) redesignated the existing Izembek National Wildlife Range, containing the 417,533-acre watershed surrounding Izembek Lagoon, as the Izembek National Wildlife Refuge.

As described in ANILCA, Izembek Refuge purposes include the following:

(i) To conserve fish and wildlife populations and habitats in their natural diversity * * *;

(ii) To fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) To provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) To ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

Section 702(6) of ANILCA also designated 300,000 acres (72%) of the Izembek Refuge Unit as wilderness. The Wilderness Act creates additional purposes for designated wilderness areas within refuge boundaries. Specifically, these areas are to be managed ''for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their

wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness.'' The Wilderness Act specifically prohibits the construction of permanent roads through wilderness area designated under the Act.

The Izembek Refuge is inhabited by a diverse and abundant community of fish and wildlife. Izembek Lagoon and adjacent coastal waters and wetlands form one of the most important migratory bird staging habitats in the world. In recognition of that, in 2001 it was designated as a Globally Important Bird Area by the American Bird Conservancy for its importance to internationally migrating birds. Hundreds of thousands of geese, ducks, and shorebirds use the Izembek Refuge's wetlands and the adjacent lagoons to rest and feed during their long migrations between arctic breeding areas and their diverse wintering areas, some as far away as South America and New Zealand. Each spring and fall, Izembek Lagoon provides staging habitat for more than 90% of the world's population of Pacific brant and many sea ducks and other waterbirds winter at the Izembek Refuge and adjacent marine waters.

Together, the Izembek Refuge and Izembek State Game Refuge, which encompasses the tidelands of Izembek Lagoon, were recognized for the area's extraordinary ecological values when they became one of the first sites in North America to be designated a Wetland of International Importance under the Ramsar convention, one of only 19 such sites within the United States. Izembek Lagoon supports some of the most extensive remaining eelgrass meadows in the world, providing a rich environment for waterbirds and other wildlife. The Refuge was also designated as a Globally Important Bird Area by the American Bird Conservancy for its importance to internationally migrating birds. Izembek Lagoon and adjacent habitats qualify as a site of Regional Importance (hosts at least 20,000 birds annually) and likely International Importance (hosts at least 100,000 birds annually) in the Western Hemispheric Shorebird Reserve Network (WHSRN). The lagoon's barrier islands protect the eelgrass habitat and wildlife species from the dramatic storms of the Bering Sea.

The Izembek Refuge also supports species of concern such as the threatened Steller's Eider, threatened sea otter, threatened Steller Sea Lion, tundra swan, black brant, gray-bellied brant, and Emperor Goose. Wildlife habitat throughout the Izembek Wilderness currently maintains a high level of connectivity providing undisturbed habitat for brown bears, caribou, moose, salmon and countless migratory birds. Additionally, caribou use Izembek Refuge as wintering grounds and brown bear use the area around the isthmus for denning. Red fox, wolves and wolverines are found on the refuge and harbor seals can be seen along the coastline and in the lagoons. Coho, chum, sockeye and pink salmon return in great numbers to the many streams of Izembek Refuge to spawn each year.

The Refuge also has a rich human history, from ancient settlements of Alaska Natives, through the 18th and 19th century Russian fur traders, to a World War II outpost. The Izembek Wilderness covers most of the refuge and includes pristine streams, extensive wetlands, steep mountains, tundra, and sand dunes, and provides high scenic, wildlife, and scientific values, as well as outstanding opportunities for solitude and primitive recreation. The overall remoteness of the Izembek National Wildlife Refuge and associated wilderness also lends itself to providing visitors with outstanding opportunities for primitive and unconfined recreation. Currently, the narrow isthmus separating the Bering Sea from the North Pacific is not fragmented by road construction and provides connectivity of habitat for many species inhabiting the southern Alaska Peninsula region. In addition to lands within Izembek Refuge, the land exchange involves parcels on Sitkinak Island within Alaska Maritime National Wildlife Refuge and parcels owned by the King Cove Corporation and the State of Alaska. Sitkinak Island is primarily owned by the State of Alaska, with two parcels owned by the Service. Some of the State of Alaska lands proposed for exchange would become part of the Alaska Peninsula National Wildlife Refuge if the exchange is approved.

The King Cove Corporation is an Alaska Native Village Corporation established under the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 *et seq.*) (ANCSA). Under the authority of ANCSA, Congress granted King Cove Corporation land entitlements within and adjacent to Izembek Refuge. The State of Alaska also owns lands, submerged lands, shorelands, and tidelands within and adjacent to Izembek and Alaska Peninsula Refuges, including the Izembek State Game Refuge.

Prior legislation and an EIS also focused on providing access between the communities of King Cove and Cold Bay. The *King Cove Health and Safety Act* (Section 353) of the *Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999* (Pub. L. 105–227) provided appropriations of $37.5 million for the Aleutians East Borough to construct a marine-road link between the communities of King Cove and Cold Bay ($20 million). This law also provided appropriation for improvements to the King Cove Airport ($15 million) and King Cove Clinic ($2.5 million). The conference committee report on this law stated the committees have agreed to these funds as an alternative to an easement for a road through the Izembek National Wildlife Refuge wilderness area to address critical health and safety needs.

The U.S. Army Corps of Engineers completed the King Cove Access Project EIS and issued a Record of Decision addressing the marine-road link in 2003. The road was constructed to Lenard Harbor, where hovercraft support facilities were installed. A hovercraft was purchased and began operating in 2007. Hovercraft transit service was provided by the Aleutians East Borough until November 2010. King Cove residents continued to advocate for a road as the safest and most reliable transportation system.

In 2009 the Omnibus Public Land Management Act of 2009 (Act), Public Law 111–11; 123 Stat. 991, was enacted. Subject to complying with the requirements of the Act, it authorized the Secretary of the Interior to enter into a land exchange between the Service and State of Alaska and between the Service and the King Cove Corporation for the purpose of constructing a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska through Izembek National Wildlife Refuge. The land exchange would involve the removal of approximately 200 acres within the Izembek National Wildlife Refuge, including lands within the wilderness portion of the Refuge, for the road corridor, and approximately 1,600 acres of Federal land within the Alaska Maritime National Wildlife Refuge on Sitkinak Island. In exchange, we would receive approximately 43,093 acres of land owned by the State of Alaska and approximately 13,300 acres of land owned by the King Cove Corporation. The lands from the State of Alaska would be designated wilderness, as would the approximately 2,565 acres of lands from the King Cove Corporation. These lands are located around Cold Bay and adjacent to the North Creek Unit of Alaska Peninsula National Wildlife Refuge.

The extraordinary wildlife and wilderness resources of Izembek National Wildlife Refuge have been recognized for their national and international significance. Congress designated the wilderness area for its outstanding opportunities for solitude and primitive and unconfined type of recreation. It contains outstanding ecological, geological, or other features of scientific, educational, scenic, and historical value. It has retained its primeval character and influence, without permanent improvements or human habitation, and is currently managed to protect and preserve its natural conditions. Section 6402(b) of the Act, requires the Service to prepare an environmental impact statement (EIS) under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR parts 1500–1508). The Act directs that the EIS analyze the proposed land exchange and the potential construction and operation of a road between the communities of King Cove and Cold Bay, Alaska. The Act requires that the Service identify a specific road corridor through the Refuge in consultation with the State, the City of King Cove and the Agdaagux Tribe of King Cove. Following completion of the EIS and Record of Decision section 6402(d) of the Act requires the Secretary to determine whether the land exchange (including the construction of a road between the City of King Cove, Alaska, and the Cold Bay Airport) is in the public interest.

**EIS Alternatives We Are Considering**

Subject to complying with the requirements of the Act, the Secretary of the Interior is authorized to consider a land exchange between the Service and State of Alaska and between the Service and the King Cove Corporation for the purpose of constructing a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska. The Act also required that we prepare this draft EIS. The Agdaagux Tribe of King Cove, Aleutians East Borough, City of King Cove, Federal Highway Administration/Western Federal Lands, King Cove Corporation, Native Village of Belkofski, State of Alaska, and U.S. Army Corps of Engineers, Alaska District (Corps) are formal cooperators in the preparation of this draft EIS. The Service is the lead agency.

The DEIS includes evaluation of two specific potential road corridors through the Izembek Refuge and wilderness that were identified in consultation with the State of Alaska, the City of King Cove, and the Agdaagux Tribe of King Cove. We developed and evaluated the following alternatives, summarized in the table and described briefly below. A full description of each alternative is in the DEIS.

| Alternative 1 No Action | Alternative 2 | Alternative 3 | Alternative 4 | Alternative 5 |
|---|---|---|---|---|
| No land exchange. Current modes of transportation, including air and marine. | Land Exchange and southern road alignment through Izembek refuge and wilderness. | Land Exchange and northern alignment through Izembek refuge and wilderness. | Hovercraft operation 6 days per week from northeast hovercraft terminal to Cross Wind Cove. | Lenard Harbor ferry with Cold Bay dock improvements. |

**Alternative 1—No Action**

Under Alternative 1, the Service would not enter into a land exchange with King Cove Corporation and the State of Alaska for the purpose of constructing a road between King Cove and Cold Bay, Alaska. Current modes of transportation between the cities of King Cove and Cold Bay would continue to operate, including air, personal marine vessels, ferry service approximately twice per month in the summer season, and seasonal hovercraft service. This alternative assumes that The Aleutians East Borough would reinstitute hovercraft service between the new northeast terminal and Cross Wind Cove in 2013. Scheduled hovercraft service would be three days per week during the months of April through October.

As the DEIS was approaching completion, the Aleutians East Borough sent the Service a letter stating that they will not resume hovercraft service in the foreseeable future. The final EIS will reflect the current status of the hovercraft and other changes that are made in response to public comments.

**Alternative 2—Land Exchange and Southern Road Alignment**

Alternative 2 proposes a land exchange between the federal government, State of Alaska, and King Cove Corporation as described in the Proposed Action. The estimated amount of federal land exchanged in this alternative for the road corridor would be 201 acres, including 131 acres in Izembek Wilderness, assuming a 100-foot corridor width.

**Alternative 3—Land Exchange and Central Road Alignment**

Alternative 3 proposes a land exchange between the federal government, State of Alaska, and King Cove Corporation, as described in the Proposed Action. The estimated amount of federal land exchanged in this alternative for the road corridor would be 227 acres, including 152 acres in Izembek Wilderness, assuming a 100-foot corridor width.

**Alternative 4—Hovercraft Operations From the Northeast Hovercraft Terminal to Cross Wind Cove (Six Days Per Week)**

Alternative 4 is the Proposed Action in the 2003 EIS for the King Cove Access Project completed by the U.S. Army Corps of Engineers. The alternative considered in this EIS would not require further construction activities; the alternative will consider operations of the hovercraft, as described in the 2003 EIS, for service 6 days per week between the Northeast Hovercraft Terminal and the Cross Wind Cove. As the DEIS was approaching completion, the Aleutians East Borough sent the Service a letter stating they will not resume hovercraft service in the foreseeable future.

**Alternative 5—Lenard Harbor Ferry With Cold Bay Dock Improvements**

Alternative 5 would use a ferry to travel 14 miles between a terminal in Lenard Harbor and a substantially modified Cold Bay dock. This alternative is similar to an alternative that was analyzed in the 2003 EIS, with the exception of project elements that have been permitted or constructed to date, including the access road to the site, a terminal building with associated utility infrastructure, and a parking area. However, the Lenard Harbor terminal structure has been damaged by a storm, and would have to be replaced. Upgrades to the parking area and security fencing would also be necessary. Ferry service would be provided 6 days per week.

**Preferred Alternative**

There is no preferred alternative selected for the Draft EIS. We will evaluate public comments and have a preferred alternative in the final EIS.

**Public Review**

We started the EIS for Izembek Refuge land exchange/road corridor in August 2009. At that time and throughout the planning process, we requested public comments and considered and incorporated them in numerous ways. In January 2010, we published a scoping newsletter describing the process for the EIS and informing the public of upcoming scoping meetings, and how they could be informed or involved. In October 2010, we published another newsletter informing the public of the issues identified during scoping. These newsletters were mailed to approximately 1,000 individuals, agencies, and organizations, and the documents were available over the Internet at *http://izembek.fws.gov/eis.htm*.

To gather additional input from the public, we held seven public open house meetings—five in communities adjacent to or within the boundaries of the Izembek Refuge; one in Washington, DC; and one in Anchorage, Alaska.

Individuals and organizations provided 31,568 comments during the scoping process. The responses came in emails, web forms, postcards, faxes, letters, and public hearing transcripts. Approximately 87 people spoke at meetings in 7 communities. The responses were reviewed, coded, and analyzed. Comments were sorted into broad issue groups including:

1. NEPA process (permits, the EIS, consultation and coordination);
2. Purpose and need for the action;
3. Proposed action, alternatives, and mitigation measures;
4. Affected environment, environmental consequences, and potential direct, indirect, and cumulative impacts; and
5. Data and available information.

We considered and evaluated these issues and public concerns, and used them to develop various aspects of the DEIS. The DEIS is now available for public review. As described in the following sections, the public may obtain copies of the DEIS summary, compact discs of the full document or view the document on our web site. Comments may be submitted at public meetings or via email, regular mail or fax. Once the public comment period ends, the comments will be analyzed and used to craft the final EIS which will be released later this year.

**Public Availability of Documents**

In addition to any methods in **ADDRESSES**, you can view or obtain documents at our Web site: *http://izembek.fws.gov/EIS.htm*.

**Public Meetings**

We will involve the public through open houses, meetings, and written comments. We will mail documents to our national and local Refuge mailing lists. Public open house meetings will be held in Anchorage, Cold Bay, False Pass, King Cove, Nelson Lagoon and Sand Point, Alaska. Dates, times, and locations of each meeting or open house will be announced in advance in local media and on our Web sites.

**Submitting Comments/Issues for Comment**

We particularly seek comments on the issues and alternatives addressed in the DEIS. We will respond to all substantive comments in the final EIS.

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document;
- Question, with reasonable basis, the adequacy of the environmental assessment;
- Present reasonable alternatives other than those presented in the draft EIS; and/or
- Provide new or additional information relevant to the assessment.

**Next Steps**

After this comment period ends, we will analyze the comments and address them in the form of a final EIS and decision document.

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 13, 2012.

**Geoffrey L. Haskett,**

*Regional Director, U.S. Fish and Wildlife Service, Anchorage, Alaska.*

[FR Doc. 2012–6476 Filed 3–16–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Advisory Board for Exceptional Children

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold its next meeting in Albuquerque, New Mexico. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

**DATES:** The Advisory Board will meet on Thursday, March 29, 2012, from 8:30 a.m. to 4:30 p.m. and Friday, March 30, 2012, from 8:30 a.m. to 4:30 p.m. Mountain Time. Orientation for new members will be held on Wednesday, March 28, 2012, from 1 p.m. to 4 p.m. Mountain Time.

**ADDRESSES:** The meeting and orientation will be held at the Manuel Lujan, Jr. Indian Affairs Building, 1011 Indian School Road North West, Albuquerque, New Mexico 87104; telephone number (505) 563–5383.

**FOR FURTHER INFORMATION CONTACT:** Sue Bement, Designated Federal Officer, Bureau of Indian Education, Albuquerque Service Center, Division of Performance and Accountability, 1011 Indian School Road NW., Suite 332, Albuquerque, NM 87104; telephone number (505) 563–5274.

**SUPPLEMENTARY INFORMATION:** In accordance with the Federal Advisory Committee Act, the BIE is announcing that the Advisory Board will hold its next meeting in Albuquerque, New Mexico. The Advisory Board was established under the Individuals with Disabilities Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary—Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Introduction of Advisory Board members.
- Introduction of Appointed Advisory Board Chair.
- Appointment of Advisory Board Vice Chair.
- Appointment of Advisory Board Secretary.
- Report from Gloria Yepa, Supervisory Education Specialist, BIE,

Division of Performance and Accountability.

- Report from BIE Director's Office.
- Report from Stan Holder, Acting Associate Deputy Director, BIE, Division of Performance and Accountability.
- Board selection of Priority Topics.
- Public Comment (via conference call, March 29, 2012, meeting only*).
- BIE Advisory Board-Advice and Recommendations.

* During the March 29, 2012, meeting, time has been set aside for public comment via conference call from 1:30—2 p.m. Mountain Time. The call-in information is: Conference Number 1–888–417–0376, Passcode 1509140.

Dated: March 9, 2012.

**Larry Echo Hawk,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2012–6566 Filed 3–16–12; 8:45 am]

**BILLING CODE 4310–6W–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWO2600000 L10600000 XQ0000]**

### Notice of Wild Horse and Burro Advisory Board Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

**DATES:** The Advisory Board will meet on Monday, April 23, 2012 from 1:30 p.m. until 5 p.m. and on Tuesday, April 24, 2012 from 8 a.m. until 5 p.m., local time. This will be a one and a half day meeting.

**ADDRESSES:** This Advisory Board meeting will take place in Reno, Nevada at the Grand Sierra Resort and Casino, 2500 East 2nd Street, Reno, Nevada 89595. The hotel phone number for reservations is 775–789–2129 or 800–648–5080.

Written comments pertaining to the April 23–24, 2012 Advisory Board meeting can be mailed to National Wild Horse and Burro Program,WO–260, Attention: Ramona DeLorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147, or sent electronically to the BLM through the Wild Horse and Burro Web site at: *http://www.blm.gov/wo/st/en/prog/whbprogram/recent_news_and_information/enhanced_feedback_form.html.*

**FOR FURTHER INFORMATION CONTACT:** Ramona DeLorme, Wild Horse and Burro Administrative Assistant, at 775–861–6583. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the BLM Director, the Secretary of Agriculture, and the Chief of the Forest Service on matters pertaining to the management and protection of wild, free-roaming horses and burros on the Nation's public lands. The Wild Horse and Burro Advisory Board operates under the authority of 43 CFR 1784. The tentative agenda for the two day event is:

**I. Advisory Board Public Meeting**

*Monday, April 23, 2012 (1:30 p.m.–5 p.m.)*

1:30 p.m. Welcome and Introductions
Call to order
Assistant Director's Welcome
Nevada State Director's Welcome
Program Overview
2:30 p.m. Old Business
Approval of October 2011 Minutes
October 2011 Meeting follow up and responses to Recommendations
3 p.m. Break
3:15 p.m. Old Business cont'd
October 2011 Meeting follow up and responses, cont'd
5 p.m. Adjourn

*Tuesday, April 24, 2011 (8 a.m.–5 p.m.)*

8 a.m. Old Business cont'd, Updates
Director's Challenge
Wild Horse and Burro Strategy and FY 2005–2010 Report to Congress
Research
9:30 a.m. Break
Comprehensive Animal Welfare Program
Litigation
10:30 a.m. Break
10:45 a.m. Public Comment period
Lunch (12 p.m.–1 p.m.)
1 p.m. New Business
Sage Grouse Planning Strategy
Advisory Board Charter/Standard Operating Procedures/By-Laws
2:45 p.m. Break
3 p.m. Board Recommendations
4:30 a.m. Recap/Summary/Next Meeting/Date/Site
5 p.m. Adjourn

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as an interpreting service, assistive listening device, or materials in an alternate format, must notify Ms. DeLorme two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal Advisory Committee Management Regulations at 41 CFR 101–6.1015(b), requires BLM to publish in the **Federal Register** notice of a public meeting 15 days prior to the meeting date.

**II. Public Comment Procedures**

On Tuesday, April 24, 2012 at 10:45 a.m. members of the public will have the opportunity to make comments to the Board on the Wild Horse and Burro Program. Persons wishing to make comments during the Tuesday meeting should register in person with the BLM by 10 a.m. on April 24, 2012, at the meeting location. Depending on the number of commenters, the Advisory Board may limit the length of comments. At previous meetings, comments have been limited to three minutes in length; however, this time may vary. Commenters should address the specific wild horse and burro-related topics listed on the agenda. Speakers are requested to submit a written copy of their statement to the address listed in the **ADDRESSES** section above or bring a written copy to the meeting. There may be a webcam present during the entire meeting and individual comments may be recorded.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments. The BLM considers comments that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations to be the most useful and likely to influence BLM's decisions on the management and protection of wild horses and burros.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment

to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 13, 2012.

**Edwin L. Roberson,**

*Assistant Director, Renewable Resources and Planning.*

[FR Doc. 2012–6587 Filed 3–16–12; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NRNHL–0312–9725; 2200–3200–665]**

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 25, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by April 3, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**J. Paul Loether,**

*Chief, National Register of Historic Places/National Historic Landmarks Program.*

**INDIANA**

**Clark County**

Smith—Sutton Site, Address Restricted, Jeffersonville, 12000183

**Delaware County**

Minnetrista Boulevard Historic District, 400–650 Minnetrista Blvd., Muncie, 12000184

**Jasper County**

Rensselear Courthouse Square Historic District, Roughly between Cullen & Front Sts. along W. Washington St., Rensselaer, 12000185

**Lake County**

Pullman—Standard Historic District (Historic Residential Suburbs in the United States, 1830–1960 MPS), Roughly bounded by Columbia, Field, Porter & Willard Aves., Hammond, 12000186

**Marshall County**

Ramsay—Fox Round Barn and Farm (Round and Polygonal Barns of Indiana MPS) 18889 9th Rd., Plymouth, 12000187

**Miami County**

Jacobs, Terrell, Circus Winter Quarters, 6125 US 31 S., Peru, 12000188

**Morgan County**

Grassyfork Fisheries Farm No. 1, 2902 E. Morgan St., Martinsville, 12000189

**Tippecanoe County**

Curtis—Grace House, 2175 Tecumseh Park Ln., West Lafayette, 12000190

**IOWA**

**Benton County**

Zalesky, Frank E. and Katie (Cherveny), House, 802 9th Ave., Belle Plaine, 12000191

**TEXAS**

**Bexar County**

Presnall—Watson Homestead (Farms and Ranches of Bexar County, Texas), Address Restricted, San Antonio, 12000192

**Brooks County**

Brooks County Courthouse, 100 E. Miller St., Falfurrias, 12000193

**Callahan County**

Texas and Pacific Railway Depot, 100 Market St., Baird, 12000194

**Harris County**

Walker House, 3534 Miramar Dr., Shoreacres, 12000195

**Matagorda County**

Christ Episcopal Church, 206 Cypress St., Matagorda, 12000196

**Newton County**

Odom, Addie L. and A.T., Homestead, 194 Cty. Rd. 1040, Burkeville, 12000197

**Travis County**

Delta Kappa Gamma Society International Headquarters Building, 416 W. 12th St., Austin, 12000198

[FR Doc. 2012–6482 Filed 3–16–12; 8:45 am]

**BILLING CODE 4312–51–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0008]**

### Agency Information Collection Activities: Extension of a Currently Approved Collection; Semi-Annual Progress Report for Enhanced Training and Services to End Violence Against and Abuse of Women Later in Life Program

**ACTION:** 60-Day Notice of Information Collection Under Review.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''Sixty days'' until May 18, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Cathy Poston, Office on Violence Against Women, at 202–514–5430.

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:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Enhanced Training and Services to End Violence Against and Abuse of Women Later in Life Program (Abuse in Later Life Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0008. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Abuse in Later Life Program. Abuse in Later Life Program grants may be used for training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals. Grantees fund projects that focus on providing training for criminal justice professionals to enhance their ability to address elder abuse, neglect and exploitation in their communities and enhanced services to address these crimes.

(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 it will take the approximately 18 respondents (Abuse in Later Life Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. An Abuse in Later Life Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

*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, 145 N Street, NE., Room 2E–508, Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, U.S. Department of Justice.*

[FR Doc. 2012–6486 Filed 3–16–12; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0012]**

### Agency Information Collection Activities: Extension of a Currently Approved Collection; Semi-Annual Progress Report for Education, Training and Enhanced Services To End Violence Against and Abuse of Women With Disabilities Grant Program

**ACTION:** 60-Day notice of information collection under review.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until May 18, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Cathy Poston, Office on Violence Against Women, at 202–514–5430.

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:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Education, Training and Enhanced Services to End Violence Against and Abuse of Women with Disabilities Grant Program (Disability Grant Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0012. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Disability Grant Program. Grantees include states, units of local government, Indian tribal governments or tribal organizations and non-governmental private organizations. The goal of this program is to build the capacity of such jurisdictions to address such violence against individuals with disabilities through the creation of multi-disciplinary teams. Disability Grant Program recipients will provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities and enhance direct services to such individuals.

(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 it will take the approximately 18 respondents (Disability Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Disability Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden

to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

*If additional information is required contact:* Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, PRA, United States Department of Justice.*

[FR Doc. 2012–6487 Filed 3–16–12; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 21, 2009, a proposed Consent Decree (''Decree'') in *United States* v. *Princeton Gamma-Tech, et al.* (D.N.J.) Civil Action No. 91–809 (AET), was lodged with the United States District Court for the District of New Jersey.

The Decree recovers costs incurred by the United States in connection with the Rocky Hill Municipal Wellfield Superfund Site and the Montgomery Township Housing Development Superfund Site (the ''Sites''), both located in New Jersey. Pursuant to the Decree, the Settling Defendants will pay to the United States $1,842,500 in reimbursement of past and future response costs incurred by the United States with respect to the Sites. In addition, the Settling Defendants will pay $907,500 to the State of New Jersey in reimbursement of past and future response costs and natural resource damages related to the Sites. The Decree resolves claims of the United States and the State of New Jersey pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606, 9607, against the Settling Defendants with respect to the Sites.

Notice of the lodging of this Decree was provided earlier on July 31, 2009. 74 FR 38230 (July 31, 2009). The Decree has not been revised in any way, but because entry of the Decree has been delayed due to a delay in submission of settlement documents (upon which the Decree is contingent) resolving one Settling Defendant's claims against its insurance carriers, we are now providing an additional period for public comment. The Department of Justice will receive for a period of fifteen (15) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environmental 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. *Princeton Gamma-Tech, et al.,* Civil Action No. 91–809, D.J. Ref. 90–11–2–290.

During the public comment period, the Consent Decree also may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.*A copy of the 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 ''Consent Decree Copy'' (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting a copy from the Consent Decree Library, please enclose a check in the amount of $14.00 (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 address given above.

**Ronald Gluck,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2012–6494 Filed 3–16–12; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

**[CPCLO Order No. 004–2012]**

### Privacy Act of 1974; System of Records

**AGENCY:** United States Department of Justice.

**ACTION:** Modified system of records.

**SUMMARY:** Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the United States Department of Justice (''Department'') proposes to modify the system of records entitled, ''Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Requests and Administrative Appeals for the Department of Justice (DOJ–004),'' 66 FR 29994 (June 4, 2001), and rename it ''Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Records (DOJ–004).'' In addition to the name change, modifications to the notice include updates to and additions of several routine uses to reflect new uses, as well as to conform with Department-wide model routine use language; additions of the Security Classification and Disclosure to Consumer Reporting Agencies sections; additions throughout the notice of references to the system's inclusion of records related to requests for the Office of Information Policy to serve as Ombudsman in disputes between federal agencies and individuals who submit requests under the Freedom of Information Act (FOIA); updates to the Record Access Procedures section to reflect the Office of Privacy and Civil Liberties' role in addressing Privacy Act amendment appeals; and minor modifications throughout the notice to reflect the name change of the Office of Information and Privacy to the Office of Information Policy, and removal of the reference to the Immigration and Naturalization Service (INS), as INS is no longer within the Department of Justice.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment. Therefore, please submit any comments by April 18, 2012.

**ADDRESSES:** The public, Office of Management and Budget (OMB), and Congress are invited to submit any comments to the Department of Justice, ATTN: Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue NW., Suite 1000, Washington, DC 20530–0001, or by facsimile to (202) 307–0693.

**FOR FURTHER INFORMATION CONTACT:** Carmen L. Mallon, Chief of Staff, Office of Information Policy, Department of Justice, Suite 11050, 1425 New York Avenue NW., Washington DC 20530.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the modifications to this system of records.

Dated: March 2, 2012.

**Nancy C. Libin,**

*Chief Privacy and Civil Liberties Officer, United States Department of Justice.*

**JUSTICE/DOJ–004**

**SYSTEM NAME:**

Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Records.

**SECURITY CLASSIFICATION:**

Unclassified and classified information.

**SYSTEM LOCATION:**

United States Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC 20530–0001, and other Department of Justice offices throughout the country.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The system encompasses all individuals who submit Freedom of Information Act (FOIA), Privacy Act, and Mandatory Declassification Review Requests and administrative appeals to the Department of Justice; individuals whose requests and/or records have been referred to the Department of Justice by other agencies; all individuals who submit requests to the Department of Justice Office of Information Policy (OIP) for its assistance as Ombudsman in disputes between the individuals and federal agencies concerning FOIA requests submitted by the individuals; and, in some instances, attorneys representing individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and/or the Department of Justice personnel assigned to handle such requests and appeals.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system consists of records created or compiled in response to FOIA, Privacy Act, and Mandatory Declassification Review requests and administrative appeals, including: The original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, in some instances, copies of requested records and records under administrative appeal. This system also consists of records related to requests for OIP to serve as Ombudsman in disputes between federal agencies and individuals who submit FOIA requests, and all records related to the resolution of such disputes.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The system was established and is maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 to implement the provisions of 5 U.S.C. 552 and 5 U.S.C. 552a, and the applicable executive order(s) governing classified national security information.

**PURPOSE(S):**

This system is maintained for the purpose of processing access requests and administrative appeals under the FOIA, access and amendment requests and administrative appeals under the Privacy Act, and requests and administrative appeals for mandatory declassification review under the applicable executive order(s) governing classified national security information; for the purpose of participating in litigation regarding agency action on such requests and appeals; for the purpose of responding to requests for OIP to serve as Ombudsman in disputes between federal agencies and individuals who submit requests under the FOIA and resolving such disputes; and for the purpose of assisting the Department of Justice in carrying out any other responsibilities under the FOIA, the Privacy Act, and applicable executive orders.

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

(a) To a federal, state, local, or foreign agency or entity for the purpose of consulting with that agency or entity to enable the Department of Justice to make a determination as to the propriety of access to or correction of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.

(b) To a federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or correction of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

(c) To a submitter or subject of a record or information in order to obtain assistance to the Department in making a determination as to access or amendment.

(d) To the National Archives and Records Administration, Information Security Oversight Office, Interagency Security Classification Appeals Panel, for the purpose of adjudicating an appeal from a Department of Justice denial of a request for mandatory declassification review of records, made under the applicable executive order(s) governing classification.

(e) To appropriate agencies, for the purpose of resolving a Freedom of Information Act Ombudsman inquiry matter.

(f) To the National Archives and Records Administration, Office of Government Information Services, in connection with the offering of mediation services by that office pursuant to 5 U.S.C. 552(h).

(g) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(h) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(i) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(j) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(k) To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

(l) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(m) To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(n) To the news media and the public, including disclosures pursuant to 28

CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(o) To federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(p) To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(q) To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

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

**STORAGE:**

Records in this system are stored on paper and/or in electronic form. Records that contain national security information and are classified are stored in accordance with applicable executive orders, statutes, and agency implementing regulations.

**RETRIEVABILITY:**

Records are retrieved by the name of the requester or appellant; the number assigned to the request or appeal; and in some instances the name of the attorney representing the requester or appellant, the name of an individual who is the subject of such a request or appeal, and/or the name or other identifier of Department of Justice personnel assigned to handle such requests or appeals.

**SAFEGUARDS:**

Information in this system is safeguarded in accordance with applicable laws, rules, and policies, including the Department's automated systems security and access policies. Classified information is appropriately stored in safes and in accordance with other applicable requirements. In general, records and technical equipment are maintained in buildings with restricted access. The required use of password protection identification features and other system protection methods also restrict access. Access is limited to those officers and employees of the agency who have an official need for access in order to perform their duties.

**RETENTION AND DISPOSAL:**

Records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 14.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief of Staff, Office of Information Policy, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001.

**NOTIFICATION PROCEDURE:**

Same as Record Access Procedures.

**RECORD ACCESS PROCEDURES:**

Records concerning initial requests under the FOIA, the Privacy Act, and the applicable executive order(s) governing classified national security information are maintained by the individual Department of Justice component to which the initial request was addressed or directed. Inquiries regarding these records should be addressed to the particular Department of Justice component maintaining the records.

Records concerning administrative appeals for access requests under the FOIA; records concerning administrative appeals for access requests and accountings of disclosure requests under the Privacy Act; records concerning administrative appeals for access requests under the applicable executive order(s) governing classified national security information, with the exception of those made to the United States Parole Commission; and records concerning disputes between federal agencies and individuals who submit FOIA requests in which OIP serves as Ombudsman, are maintained by OIP. Inquiries regarding these records should be addressed to the Office of Information Policy, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001. Inquiries regarding administrative appeals made to the United States Parole Commission should be addressed to the United States Parole Commission, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001.

Records concerning administrative appeals for amendment requests under the Privacy Act should be addressed to the Office of Privacy and Civil Liberties, United States Department of Justice, 1331 Pennsylvania Ave. NW., Suite 1000, National Place Building, Washington, DC 20350–0001.

All requests for access must be in writing and should be addressed to the System Manager named above. The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information may be exempt from access provisions as described in the section entitled ''Exemptions Claimed for the System.'' An individual who is the subject of a record in this system may access those records that are not exempt from disclosure. A determination whether a record may be accessed will be made at the time a request is received.

Although no specific form is required, you may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001, or on the Department of Justice Web site at *www.usdoj.gov/04foia/att_d.htm.*

**CONTESTING RECORD PROCEDURES:**

Individuals seeking to contest or amend information maintained in the system should direct their requests to the appropriate office indicated in the ''Record Access Procedures'' section, above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Some information may be exempt from contesting record procedures as described in the section entitled ''Exemptions Claimed for the System.'' An individual who is the subject of a record in this system may seek amendment of those records that are not exempt. A determination of whether a record is exempt from amendment will be made after a request is received.

**RECORD SOURCE CATEGORIES:**

Those individuals who submit initial requests and administrative appeals pursuant to the FOIA, the Privacy Act,

or the applicable executive order(s) governing classified national security information; the agency records searched in the process of responding to such requests and appeals; Department of Justice personnel assigned to handle such requests and appeals; other agencies or entities that have referred to the Department of Justice requests concerning Department of Justice records, or that have consulted with the Department of Justice regarding the handling of particular requests; individuals and agencies who are involved in disputes concerning FOIA requests where OIP is serving as Ombudsman to resolve such disputes; and submitters or subjects of records or information that have provided assistance to the Department of Justice in making access or amendment determinations.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

The Attorney General has exempted this system from subsections (c)(3) and (4), (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e), and have been published in the **Federal Register**.

[FR Doc. 2012–6557 Filed 3–16–12; 8:45 am]

**BILLING CODE 4410–FB–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Disclosures by Insurers to General Account Policyholders

**AGENCY:** Office of the Secretary, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Disclosures by Insurers to General Account Policyholders,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

**DATES:** Submit comments on or before April 18, 2012.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—EBSA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** Regulations 29 CFR 2550.401(c)–1 imposes specific requirements on insurers that are parties to Transition Policies, in order to ensure fiduciaries acting on behalf of plans have adequate information and understanding of how the Transition Policies work. Certain of these requirements constitute information collections subject to the PRA. Specifically, to the extent a Transition Policy first issued prior to January 1, 1999, to or for the benefit of an employee benefit plan is not a guaranteed benefit policy, the insurer must annually disclose to the plan fiduciary: (1) The methods by which income and expenses of the insurer's general account are allocated to the policy, the actual annual return to the plan, and other pertinent information; (2) the extent to which alternative arrangements supported by the assets of the insurer's separate accounts are available; (3) any rights under the policy to transfer funds to a separate account and the terms governing such right; and (4) the extent to which support by assets of the insurer's separate accounts might pose differing risks to the plan.

A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1210–0114. The current OMB approval is scheduled to expire on March 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on December 7, 2011 (76 FR 76439).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1210–0114. 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:* DOL–EBSA.

*Title of Collection:* Disclosures by Insurers to General Account Policyholders.

*OMB Control Number:* 1210–0114.

*Affected Public:* Private Sector—Businesses or other for profits.

*Total Estimated Number of Respondents:* 104.

*Total Estimated Number of Responses:* 96,223.

*Total Estimated Annual Burden Hours:* 408,948.

*Total Estimated Annual Other Costs Burden:* $33,678.

Dated: March 14, 2012.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2012–6568 Filed 3–16–12; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act of 1974 Technical Release 91–1

**AGENCY:** Office of the Secretary, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Employee Retirement Income Security Act of 1974 Technical Release 91–1,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

**DATES:** Submit comments on or before April 18, 2012.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,*on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the DOL–EBSA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** The subject information collection requirements arise from Employee Retirement Income Security Act of 1974 (ERISA) section 101(e), which establishes notice requirements that must be satisfied before an employer may transfer excess assets from a defined benefit pension plan to a retiree health benefit account, as permitted under the conditions set forth in Internal Revenue Code of 1986, as amended (the Code) section 420. The section 101(e) notice requirements are two-fold. First, subsection (e)(1) requires plan administrators to provide advance written notification of such transfers to participants and beneficiaries. Second, subsection (e)(2)(A) requires employers to provide advance written notification of such transfers to the Secretaries of Labor and the Treasury, the plan administrator, and each employee organization representing participants in the plan. Both notices must be given at least 60 days before the transfer date. The two subsections prescribe the information to be included in each type of notice and further give the Secretary of Labor the authority to prescribe how notice to participants and beneficiaries must be given and how any additional reporting requirements are deemed necessary.

The DOL published ERISA Technical Release 91–1 on May 8, 1991, to provide guidance on how to satisfy the notice requirements prescribed by this section of the Act. The Technical Release made two changes in the statutory requirements for the second type of notice. First, it required the notice to include a filing date and the intended asset transfer date. The Release also simplified the statutory filing requirements by providing that filing with the DOL would be deemed sufficient notice to both the DOL and the Department of the Treasury, as required under the statute.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1210–0084. The current OMB approval is scheduled to expire on March 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on December 7, 2011 (76 FR 76439).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1210–0084. 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:* DOL–EBSA.

*Title of Collection:* Employee Retirement Income Security Act of 1974 Technical Release 91–1.

*OMB Control Number:* 1210–0084.

*Affected Public:* Private Sector—Businesses or Other For-Profits.

*Total Estimated Number of Respondents:* 12.

*Total Estimated Number of Responses:* 82,518.

*Total Estimated Annual Burden Hours:* 1,392.

*Total Estimated Annual Other Costs Burden:* $20,715.

Dated: March 14, 2012.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2012–6569 Filed 3–16–12; 8:45 am]

**BILLING CODE 4510–29–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 27, 2012 through March 2, 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. Under 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 |
|---|---|---|---|
| 81,041 | Vanguard Pai Lung, LLC | Monroe, NC | July 22, 2011. |
| 81,184 | C&M Wood Industries, Inc. | Hesperia, CA | February 13, 2010. |
| 81,280 | Par Logistics Management Systems Corporation, including on-site leased workers from Adecco and Staffworks. | New Hartford, NY | January 25, 2011. |

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 81,288 | Criticare Systems, Inc., Including on site leased workers: Adecco and Accountemps. | Waukesha, WI | January 30, 2011. |

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 |
|---|---|---|---|
| 81,199 | Wellpoint, Inc., Sales Fulfillment Division, Kelly Services, Aerotek | Roanoke, VA | February 13, 2010. |
| 81,211 | Solaicx, a wholly owned subsidiary of MEMC, MEMC Portland Division, incl. leased workers from Aerotek and Express Employment Solutions. | Portland, OR | February 13, 2010. |
| 81,294 | Olean Advanced Products, Division of AVX Corporation | Olean, NY | February 3, 2011. |
| 81,311 | Teachscape | San Francisco, CA | February 6, 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 |
|---|---|---|---|
| 81,155 | Yorktowne Paperboard Corp., Paperboard Mill Div., Newark Group. | York, PA | February 13, 2010. |
| 81,155A | Newark Paperboard Products, Newark Group | Monmouth, ME | February 13, 2010. |
| 81,155B | The Newark Group | Cranford, NJ | February 13, 2010. |
| 81,333 | Air Products and Chemicals Inc., Working On-Site at Hewlett Packard Company. | Boise, ID | February 14, 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) (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 |
|---|---|---|---|
| 81,187 | American Express Travel Related Services Company, Inc., World Service—Global Billing and Payment Services (GBPS) inc. Kelly Services. | Weston, FL. | |
| 81,281 | Time Warner Entertainment Company, L.P | Coudersport, PA. | |

**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 |
|---|---|---|---|
| 81,321 | PlumChoice | Billerica, MA. | |

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 81,270 | Header Products, Inc | Romulus, MI. | |

I hereby certify that the aforementioned determinations were issued during the period of February 27, 2012 through March 2, 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 9, 2012.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2012–6571 Filed 3–16–12; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 29, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 29, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 9th day of March 2012.

**Michael Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

## APPENDIX

[40 TAA petitions instituted between 2/20/12 and 3/2/12]

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 81348 | Fashion Tech (Company) | Salt Lake City, UT | 02/21/12 | 02/17/12 |
| 81349 | Alcatel—Lucent (Workers) | Charlotte, NC | 02/21/12 | 02/17/12 |
| 81350 | Fashion Ability Inc. (Workers) | New York, NY | 02/21/12 | 02/19/12 |
| 81351 | Quanex Corporation/Truseal Technologies Inc. (Union) | Barbourville, KY | 02/21/12 | 02/18/12 |
| 81352 | Simclar, Inc. (Company) | Dayton, OH | 02/21/12 | 02/17/12 |
| 81353 | UBS Services LLC (Workers) | Jersey City, NJ | 02/21/12 | 02/17/12 |
| 81354 | ALCOA, Tennessee Operations (Union) | Alcoa, TN | 02/21/12 | 02/07/12 |
| 81355 | Sanmina—SCI Corporation (State/One-Stop) | Huntsville, AL | 02/22/12 | 02/21/12 |
| 81356 | The W.E. Bassett Company (Company) | Shelton, CT | 02/22/12 | 02/08/12 |
| 81357 | Tri-Fab (State/One-Stop) | Fremont, CA | 02/22/12 | 02/10/12 |
| 81358 | Clipper Windpower Inc. (Workers) | Carpinteria, CA | 02/22/12 | 02/21/12 |
| 81359 | Codi Inc. (Company) | Tower City, PA | 02/23/12 | 02/22/12 |
| 81360 | Robert Bosch, LLC (Union) | St. Joseph, MI | 02/24/12 | 02/23/12 |
| 81361 | The State Journal-Register (Workers) | Springfield, IL | 02/24/12 | 02/17/12 |
| 81362 | Prairie Mountain Publishing (Workers) | Boulder, CO | 02/24/12 | 02/23/12 |
| 81363 | FLABEG Automotive US Corporation (Company) | Brackenridge, PA | 02/24/12 | 02/23/12 |
| 81364 | Jeld Wen, Inc. (State/One-Stop) | Bend, OR | 02/24/12 | 02/23/12 |
| 81365 | Avaya, Audio and Video Group (State/One-Stop) | Highlands Ranch, CO | 02/24/12 | 02/23/12 |
| 81366 | Lumber Products, Sunrise Division (State/One-Stop) | Spokane Valley, WA | 02/27/12 | 02/23/12 |
| 81367 | Infinite Convergence Solutions (Workers) | Arlington Heights, IL | 02/27/12 | 02/27/12 |
| 81368 | CitiGroup (State/One-Stop) | Tampa, FL | 02/27/12 | 02/24/12 |
| 81369 | Versatile Entertainment, Inc. (Company) | Los Angeles, CA | 02/27/12 | 02/24/12 |
| 81370 | Intelius, Inc. (Workers) | Bothell, WA | 02/27/12 | 02/24/12 |
| 81371 | Flo-Pro, Inc. (Company) | Bedford, NH | 02/27/12 | 02/24/12 |
| 81372 | Simpson Lumber Co. LLC (Union) | Shelton, WA | 02/27/12 | 02/21/12 |
| 81373 | RS Medical (International Rehabilitative Services) (State/One-Stop). | Vancouver, WA | 02/28/12 | 02/27/12 |
| 81374 | Emhart Teknologies (State/One-Stop) | Campbellsville, KY | 02/28/12 | 02/27/12 |
| 81375 | Dow Jones Corporation (State/One-Stop) | Princeton, NJ | 02/28/12 | 02/28/12 |
| 81376 | Stanley Black and Decker, working from home in Houston, Texas (Workers). | Townson, MD | 02/28/12 | 02/27/12 |
| 81377 | Allied Motion Motor Products (Workers) | Owosso, MI | 02/29/12 | 02/28/12 |
| 81378 | II–VI Inc. (Workers) | Saxonburg, PA | 02/29/12 | 02/10/12 |
| 81379 | IBM (State/One-Stop) | Phoenix, AZ | 02/29/12 | 02/03/12 |
| 81380 | YPG (Workers) | Blue Bell, PA | 02/29/12 | 02/04/12 |
| 81381 | Coplas, Inc. (State/One-Stop) | Shreveport, LA | 03/01/12 | 02/29/12 |
| 81382 | Vector Engineering Inc. (Workers) | Grass Valley, CA | 03/01/12 | 02/28/12 |
| 81383 | Impact Confections (State/One-Stop) | Roswell, NM | 03/02/12 | 02/29/12 |

APPENDIX—Continued

[40 TAA petitions instituted between 2/20/12 and 3/2/12]

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 81384 | Industrial Plastics (Union) | Valley City, OH | 03/02/12 | 03/02/12 |
| 81385 | Pfizer, Inc. (State/One-Stop) | Groton, CT | 03/02/12 | 02/27/12 |
| 81386 | W Scott & Co. (Workers) | St. Joseph, MO | 03/02/12 | 03/01/12 |
| 81387 | Eastman Kodak (Workers) | Kettering, OH | 03/02/12 | 03/01/12 |

[FR Doc. 2012–6570 Filed 3–16–12; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Listening Sessions on Implementation of Unemployment Insurance Provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96)

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice and request for participation in listening sessions.

**SUMMARY:** This notice announces listening sessions designed to gain input from employers, labor organizations, State workforce agencies, and relevant program experts on the implementation of provisions of the Middle Class Tax Relief and Job Creation Act of 2012 related to Short Time Compensation (STC) and Self Employment Assistance (SEA) programs. Specifically the Department of Labor (Department) is interested in hearing from stakeholders on the following issues:

- Model State legislation to support implementation of the two programs;
- Guidance and technical assistance to States; and
- Reporting requirements.

*Times and Dates:* The listening sessions for the STC and SEA programs are as follows:

**Short Time Compensation**

Monday, March 19, 2012 at 1 p.m. EST.
Tuesday, March 20, 2012 at 3 p.m. EST.

**Self Employment Assistance**

Monday, March 19, 2012 at 3 p.m. EST.
Tuesday, March 20, 2012 at 1 p.m. EST.

**SUPPLEMENTARY INFORMATION:**

*To Register:* You must be a registered user of Workforce3 One to participate in the listening sessions. To register for Workforce 3 One go to *www.workforce3one.org.* To register for the listening sessions please visit: *https://www.workforce3one.org/view/100120665562111375 3/info* to register. Once an individual has registered, an email will be sent with detailed instructions for accessing the listening session and for dialing into the conference call line. The listening sessions will be recorded. Space is limited, so please only register for one STC session and one SEA session.

*Background:* The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96) (Act) includes within it Title II—Unemployment Benefit Continuation and Program Improvement, which contains Subtitle D—Short-Time Compensation Program, that has new provisions that promote significant expansion of the STC program (also known as work sharing) and Subtitle E—Self-Employment Assistance, both provide incentives for States to implement these programs. Below are summaries of the provisions for both the STC and SEA programs in the Act.

**Short Time Compensation Program**

The Act codifies and expands the existing definition of STC by amending section 3306, Federal Unemployment Tax Act (FUTA), to add a new subsection defining ''short-time compensation program'' as a program under which:

- Employer participation is voluntary;
- Employers reduce employee hours in lieu of layoffs;
- The reduction of hours is at least 10 percent and not more than 60 percent and employees are not disqualified from unemployment compensation;
- Employees receive a pro rata share of unemployment benefits that they would have received if totally unemployed;
- Employees meet work availability and work search requirements if they are available for their workweek as required;
- Eligible employees may participate in appropriate training, either employer sponsored or funded under the Workforce Investment Act of 1998;
- Employers are required to certify that, if health and retirement benefits are provided, those benefits will not be reduced due to participation in the STC program; and
- The State unemployment insurance agency requires the employer to submit a written plan describing how the requirements of this subsection will be implemented, with an estimate of the number of layoffs that would have occurred but for the STC program; the plan must be consistent with employer obligations under Federal law.

The Act provides for a transition period and effective date for existing programs that can be either the date the State changes its law or 2 years and 6 months after the enactment of the Act. Except for the transition period, the STC provisions are effective upon enactment, pending guidance from the Department.

The Act provides for two ways that States may implement and/or expand their STC programs. To encourage States to implement permanent STC programs, the Act provides for 100 percent reimbursement of the amount of STC paid under a program meeting the new definition for an STC program in section 3306(v), up to 26 times the amount of regular compensation, including dependents' allowances, payable to the individual under State law. However, no payments may be made to a State for STC benefits paid to an individual who is employed on a seasonal, temporary, or intermittent basis. States operating an STC program under the old definition will be eligible for 2 years of reimbursement until they amend their laws to conform to the new definition under 3306(v). Payments are available for STC programs for weeks of unemployment beginning on or after February 22, 2012, and ending on or before the date that is 3 years and 6 months after the date of enactment.

To enable States that need to enact new State legislation, which could take time, the Act also provides for a temporary Federal STC program. If a State's law does not provide for payment of STC, States may enter into an agreement with the Secretary OF Labor (Secretary) such that the State will be paid, by way of reimbursement, one-half of the amount of STC paid to individuals pursuant to the agreement, and any additional administrative

expenses incurred by reason of the agreement. States that want to take advantage of the new temporary Federal program must enter into an agreement with the Secretary to provide STC to individuals. States are reimbursed one-half of benefits paid under this option and participating employers must pay the remaining one-half of the amount of STC paid by the State. The money must be deposited into the State's unemployment trust fund and may not be used to calculate the employer's contribution rate. An agreement entered into under this section applies to weeks of unemployment beginning on or after the date on which the agreement is entered into, and ending on or before the date that is 2 years and 13 months after the date of enactment of the Act. States may receive payments under this section ''with respect to a total of not more than 104 weeks.'' States may receive funding for both programs for a total of not more than 156 weeks.

In addition to Federal reimbursement for benefits paid to States for either a permanent STC program or the temporary Federal STC program, the Act provides for grants to States for implementation or improved administration of enacted STC programs and promotion and enrollment of employers to participate in the program. States that have an STC program that does not meet the requirements of section 3306(v) of the FUTA, or that have a program under the terms of an agreement with the Secretary, are not eligible for grants under this section. In addition, States with STC programs subject to discontinuation, or which are not scheduled to take effect within 12 months of certification, may not receive grants. The Act provides a formula for calculating the maximum amount of grants available to a State, and further provides that one-third of the maximum incentive payment to a State is available for implementation or improved administration and two-thirds is available for promotion and enrollment. The Act also requires the Secretary to establish a process to recoup grant funds if it is determined that, during the 5-year period beginning with the first date a grant is awarded to a State, the State terminated the STC program or failed to meet appropriate requirements for the program.

With regard to these provisions the Secretary is required to:

- Develop and periodically review and revise, model legislative language that States may use to develop and enact STC programs;
- Provide technical assistance and guidance to States in developing, enacting, and implementing such programs;
- Establish reporting requirements for the number of estimated averted layoffs, number of participating employers, and other reporting as the Secretary may require; and
- Consult with employers, labor organizations, State workforce agencies, and other program experts in developing the model legislative language, guidance, development of reporting requirements, and delivery of technical assistance.

**Self-Employment Assistance (SEA) Program**

The Act amends extended benefits (EB) law to add a new provision, section 208, to the Federal-State Extended Unemployment Compensation Act of 1970. Section 208 provides authority to States to establish an SEA program for individuals receiving extended benefits. Current law limits SEA participation to individuals who are eligible to receive ''regular compensation.'' In addition, the Act adds new section 4001(j) of the Supplemental Appropriations Act of 2008 to make SEA programs available to recipients of benefits under the Emergency Unemployment Compensation (EUC) program, if a State chooses to create an SEA program for EUC claimants.

Individuals may receive up to 26 weeks of SEA payments based on EUC, EB, or combined EUC/EB eligibility. The Act permits an individual who is receiving SEA under an EB program to continue to receive EUC SEA benefits when they exhaust EB eligibility, up to the combined eligibility limit. The Act limits the percentage of EUC/EB participants that may participate in SEA to no more than 1 percent of the number of individuals receiving benefits in either program. Individuals may only be approved for participation in SEA if the agency ''has a reasonable expectation that the individual will be entitled to at least 13 weeks'' of EUC and/or EB benefits. Individuals may drop out of SEA at any time and receive the balance of EB or EUC to which they were initially determined eligible.

The Act also provides for grants to States to improve administration of existing SEA programs enacted prior to February 22, 2012. Grants may also be used for development, implementation, and administration of SEA programs established after February 22, 2012 for regular State benefits, EB, or EUC. The Act also authorizes the Secretary to award grants to States to promote SEA programs and enroll unemployed individuals in those programs. The amount of a grant shall be determined based on the percentage of unemployed individuals relative to the percentage of unemployed individuals in all States. Applications for grants must be submitted to the Secretary on or before December 31, 2013.

With regard to these provisions the Secretary is required to:

- Develop model language, and periodically review and revise the model language;
- Provide technical assistance and guidance in establishing, improving, and administering SEA programs;
- Establish reporting requirements for State SEA programs on, the total number of individuals who received unemployment compensation and were referred to an SEA program, participated in the SEA program, and received an allowance under the SEA program;
- Establish reporting requirements for State SEA programs on the total amount of allowances provided to SEA participants;
- Establish reporting requirements for State SEA programs on the total income for businesses established by participants and the total number of individuals employed in such businesses;
- Establish reporting requirements for State SEA programs on other information the Secretary deems appropriate; and
- Consult with employers, labor organizations, State workforce agencies, and other program experts in developing the model legislative language, guidance, development of reporting requirements, and delivery of technical assistance.

The Act also requires the Secretary to utilize resources available throughout the Department and to coordinate with the Small Business Administration to ensure adequate funding is reserved and available to provide entrepreneurial training for SEA participants.

**Stakeholder Consultation Opportunities**

As described above, the Secretary is required to consult with employers, labor organizations, State workforce agencies, and other program experts in developing the model legislative language, guidance, development of reporting requirements, and delivery of technical assistance for both the STC and SEA initiatives. In order to meet this requirement and to expeditiously develop guidance for States to implement these programs, the Department invites employers, labor organizations, State workforce agencies, other relevant program experts, and other interested parties to participate in the listening sessions listed above designed to receive this input from key

program stakeholders. There will be two listening sessions scheduled for each program. In addition, a Web chat feature will be available to enable online contributions from participants who are unable to provide verbal contributions during the listening sessions due to do the available time and number of participants. The listening sessions will be 90 minutes long and will be recorded.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dale Ziegler, Deputy Administrator, Office of Unemployment Insurance, ETA, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–4524, Washington, DC 20210. *Telephone:* (202) 693–2942, (this is not a toll-free number).

Signed at Washington, DC, this 13th day of March 2012.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2012–6573 Filed 3–16–12; 8:45 am]

**BILLING CODE 4510–FW–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice.

**SUMMARY:** NARA is giving public notice that the agency proposes to request use of a new information collection. This information collection is a questionnaire designed to identify potential grant recipients that have limited experience with managing Federal funds. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be received on or before May 18, 2012 to be assured of consideration.

**ADDRESSES:** Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to (301) 713–7409; or electronically mailed to *tamee.fechhelm@nara.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number (301) 837–1694, or fax number (301) 713–7409.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 all respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

*Title:* Accounting System and Financial Capability Questionnaire.

*OMB number:* 3095–00XX.

*Agency form numbers:* NA Form 17003.

*Type of review:* Regular.

*Affected public:* Not-for-profit institutions and State, Local, or Tribal Government.

*Estimated number of respondents:* 100.

*Estimated time per response:* 4 hours.

*Frequency of response:* On occasion.

*Estimated total annual burden hours:* 400.

*Abstract:* Pursuant to the Title 2, Section 215 of the Code of Federal Regulations, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (formerly Office of Management and Budget (OMB) Circular A–110) and Office of Management and Budget Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations, grant recipients are required to maintain adequate accounting controls and systems in managing and administering Federal funds. Some of the recipients of grants from the National Historical Publications and Records Commission (NHPRC) have proven to have limited experience with managing Federal funds. This questionnaire is designed to identify those potential recipients and provide appropriate training or additional safeguards for Federal funds. Additionally, the questionnaire serves as a pre-audit function in identifying potential deficiencies and minimizing the risk of fraud, waste, abuse, or mismanagement, which we use in lieu of a more costly and time consuming formal pre-award audit.

Dated: March 7, 2012.

**Michael L. Wash,**

*Executive for Information Services/CIO.*

[FR Doc. 2012–6564 Filed 3–16–12; 8:45 am]

**BILLING CODE 7515–01–P**

## National Science Foundation

### Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

*Name:* Directorate for Mathematical and Physical Sciences Advisory Committee (66).

*Date/Time:* April 7, 2010 8 a.m.–6 p.m., April 8, 2010 8 a.m.–3 p.m.

*Place:* National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230.

*Type of Meeting:* Open.

*Contact Person:* Dr. Morris L. Aizenman, Senior Science Associate, Directorate for Mathematical and Physical Sciences, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8807.

*Purpose of Meeting:* To provide advice and recommendations concerning NSF science and education activities within the Directorate for Mathematical and Physical Sciences.

**Agenda**

Update on current status of Directorate
Report of MPS Committee of Visitors
Report of NSF Advisory Subcommittees
Meeting of MPSAC with Divisions within MPS Directorate
Discussion of MPS Long-term Planning Activities

*Summary Minutes:* May be obtained from the contact person listed above.

Dated: March 14, 2012.

**Susanne E. Bolton,**

*Committee Management Officer.*

[FR Doc. 2012–6572 Filed 3–16–12; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 70–0036; NRC–2012–0054]**

## License Amendment Request From Westinghouse Electric Company, LLC, Hematite Decommissioning Project

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; opportunity to provide comments, request a hearing and to petition for leave to intervene, and Order.

**DATES:** Submit comments by May 18, 2012. Requests for a hearing or leave to intervene must be filed by May 18, 2012. Any potential party as defined in Title 10 of the Code of Federal Regulations (10 CFR) 2.4, who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) is necessary to respond to this notice must request document access by March 29, 2012.

**ADDRESSES:** You may access information and comment submissions related to this document, which the NRC possesses and is publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0054.

You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0054. 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:** John J. Hayes, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5928; email: *John.Hayes@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Accessing Information and Submitting Comments

*A. Accessing Information*

Please refer to Docket ID NRC–2012–0054 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–2012–0054.
- *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*.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID NRC–2012–0054 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

### II. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has received a license amendment application from Westinghouse Electric Company, LLC (WEC or the licensee), dated January 16, 2012, for disposal of NRC-licensed source, byproduct, and special nuclear material pursuant to 10 CFR 20.2002 from its former fuel cycle facility located in Festus, Missouri. The licensee holds NRC License No. SNM–33 and is authorized to conduct decommissioning activities at the facility. The amendment requests authorization for WEC to transfer decommissioning waste from the facility to U.S. Ecology Idaho, Inc., a Resource Conservation and Recovery Act (RCRA) Subtitle C disposal facility located near Grand View, Idaho. The U.S. Ecology Idaho facility is regulated by the Idaho Department of Environmental Quality and is not an NRC-licensed facility. Pursuant to 10 CFR 30.11 and 70.17, WEC's application also requests that U.S. Ecology be granted exemptions from the licensing requirements of 10 CFR 30.3 and 70.3 for byproduct and special nuclear material, respectively, so that the U.S. Ecology may accept the material under the terms of its facility permit.

An NRC administrative review, documented in a letter to WEC dated February 3, 2012, (ADAMS Accession No. ML120240300) found the application acceptable to begin a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC License No. SNM–33. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and the NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

### III. Opportunity To Request a Hearing and Petitions for Leave To Intervene

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, ''Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions.'' Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. You may also call the PDR at 1–800–397–4209 or 301–415–4737. The NRC regulations are also accessible online in the NRC Library at *http://www.nrc.govreading-rm/adams.html*.

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10

CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board (the Licensing Board) will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)(viii).

A State, county, municipality, Federally-recognized Indian tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by May 18, 2012. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by May 18, 2012.

## IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counselor representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counselor representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/esubmittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web

site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC' Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counselor or representative) must apply for and receive a digital lD certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-helple-submitta/s.htm/* by email at *MSHOResource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from March 19, 2012. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

**Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation**

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–492–3524.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–5877, or by email to *Forms.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of $ 200.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

**Note:** Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB–05–B32M, Washington, DC 20555–0001.

These documents and materials should not be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [5] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

*It is so ordered.*

Dated at Rockville, Maryland this 13th day of March, 2012.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING

| Day | Event/Activity |
|---|---|
| 0 ..... | Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests. |
| 10 ..... | Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check. |
| 60 ..... | Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply). |
| 20 ..... | Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections. |
| 25 ..... | If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access. |
| 30 ..... | Deadline for NRC staff reply to motions to reverse NRC staff determination(s). |
| 40 ..... | (Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI. |

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

| Day | Event/Activity |
|---|---|
| 190 ..... | (Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information. |
| 205 ..... | Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv). |
| A ..... | If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff. |
| A + 3 ..... | Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order. |
| A + 28 .... | Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline. |
| A + 53 .... | (Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI. |
| A + 60 .... | (Answer receipt +7) Petitioner/Intervenor reply to answers. |
| >A + 60 .. | Decision on contention admission. |

[FR Doc. 2012–6541 Filed 3–16–12; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS), Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 11, 2012, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Wednesday, April 11, 2012—11 a.m. Until 12 p.m.**

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Antonio Dias (Telephone 301–415–6805 or Email: *Antonio.Dias@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2011, (76 FR 64126–64127).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: March 7, 2012.

**Cayetano Santos,**

*Chief, Reactor Safety Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2012–6543 Filed 3–16–12; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[EA–12–051; NRC–2012–0067; Docket Nos. (as shown in Attachment 1), License Nos. (as shown in Attachment 1), or Construction Permit Nos. (as shown in Attachment 1)]**

### In the Matter of All Power Reactor Licensees and Holders of Construction Permits in Active Or Deferred Status: Order Modifying Licenses With Regard To Reliable Spent Fuel Pool Instrumentation (Effective Immediately)

**I**

The Licensees and construction permit (CP) holders[1] identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing operation and/or construction of nuclear power plants in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations (10 CFR) Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

[1] *CP holders, as used in this Order, includes CPs, in active or deferred status, as identified in Attachment 1 to this Order (i.e., Watts Bar, Unit 2; and Bellefonte, Units 1 and 2)*

**II**

On March 11, 2011, a magnitude 9.0 earthquake struck off the coast of the Japanese island of Honshu. The earthquake resulted in a large tsunami, estimated to have exceeded 14 meters (45 feet) in height, that inundated the Fukushima Dai-ichi nuclear power plant site.

The earthquake and tsunami produced widespread devastation across northeastern Japan and significantly affected the infrastructure and industry in the northeastern coastal areas of Japan.

When the earthquake occurred, Fukushima Dai-ichi Units 1, 2, and 3 were in operation and Units 4, 5, and 6 were shut down for routine refueling and maintenance activities. The Unit 4 reactor fuel was offloaded to the Unit 4 spent fuel pool. Following the earthquake, the three operating units automatically shut down and offsite power was lost to the entire facility. The emergency diesel generators (EDGs) started at all six units providing alternating current (ac) electrical power to critical systems at each unit. The facility response to the earthquake appears to have been normal.

Approximately 40 minutes following the earthquake and shutdown of the operating units, the first large tsunami wave inundated the site, followed by additional waves. The tsunami caused extensive damage to site facilities and resulted in a complete loss of all ac electrical power at Units 1 through 5, a condition known as station blackout. In addition, all direct current electrical power was lost early in the event on Units 1 and 2 and after some period of time at the other units. Unit 6 retained the function of one air-cooled EDG. Despite their actions, the operators lost the ability to cool the fuel in the Unit 1 reactor after several hours, in the Unit 2 reactor after about 70 hours, and in the Unit 3 reactor after about 36 hours, resulting in damage to the nuclear fuel shortly after the loss of cooling capabilities.

The Unit 4 spent fuel pool contained the highest heat load of the six units with the full core present in the spent fuel pool and the refueling gates installed. However, because Unit 4 had been shut down for more than 3 months, the heat load was low relative to that present in spent fuel pools immediately following shutdown for reactor refueling. Following the earthquake and tsunami, the operators in the Units 3 and 4 control room focused their efforts on stabilizing the Unit 3 reactor. During the event, concern grew that the spent fuel was overheating, causing a high-temperature reaction of steam and zirconium fuel cladding generating hydrogen gas. This concern persisted primarily due to a lack of readily available and reliable information on water levels in the spent fuel pools. Helicopter water drops, water cannons, and cement delivery vehicles with articulating booms were used to refill the pools, which diverted resources and attention from other efforts. Subsequent analysis determined that the water level in the Unit 4 spent fuel pool did not drop below the top of the stored fuel and no significant fuel damage occurred. The lack of information on the condition of the spent fuel pools contributed to a poor understanding of possible radiation releases and adversely impacted effective prioritization of emergency response actions by decision makers.

Following the events at the Fukushima Dai-ichi nuclear power plant, the NRC established a senior-level agency task force referred to as the Near-Term Task Force (NTTF). The NTTF was tasked with conducting a systematic and methodical review of the NRC regulations and processes and determining if the agency should make additional improvements to these programs in light of the events at Fukushima Dai-ichi. As a result of this review, the NTTF developed a comprehensive set of recommendations, documented in SECY–11–0093, ''Near-Term Report and Recommendations for Agency Actions Following the Events in Japan,'' dated July 12, 2011. These recommendations were modified by the NRC staff following interactions with stakeholders. Documentation of the NRC staff's efforts is contained in SECY–11–0124, ''Recommended Actions To Be Taken Without Delay From the Near-Term Task Force Report,'' dated September 9, 2011, and SECY–11–0137, ''Prioritization of Recommended Actions To Be Taken in Response to Fukushima Lessons Learned,'' dated October 3, 2011.

As directed by the Commission's Staff Requirements Memorandum (SRM) for SECY–11–0093, the NRC staff reviewed the NTTF recommendations within the context of the NRC's existing regulatory framework and considered the various regulatory vehicles available to the NRC to implement the recommendations. SECY–11–0124 and SECY–11–0137 established the NRC staff's prioritization of the recommendations based upon the potential safety enhancements.

Current regulatory requirements and existing plant capabilities allow the NRC to conclude that a sequence of events such as the Fukushima Dai-ichi accident is unlikely to occur in the United States. Therefore, continued operation and continued licensing activities do not pose an imminent threat to public health and safety. However, the NRC's assessment of new insights from the events at Fukushima Dai-ichi leads the NRC staff to conclude that additional requirements must be imposed on Licensees and CP holders to increase the capability of nuclear power plants to mitigate beyond-design-basis external events. These additional requirements represent a substantial increase in the protection of public health and safety. The Commission has decided to administratively exempt this Order from applicable provisions of the Backfit Rule, 10 CFR 50.109, and the issue finality requirements in 10 CFR 52.63 and 10 CFR Part 52, Appendix D, Paragraph VIII.

Additional details on an acceptable approach for complying with this Order will be contained in final interim staff guidance (ISG) scheduled to be issued by the NRC in August 2012. This guidance will include a template to be used for the plan that will be submitted in accordance with Section IV, Condition C.1 below.

**III**

Reasonable assurance of adequate protection of public health and safety and assurance of the common defense and security are the fundamental NRC regulatory objectives. Compliance with NRC requirements plays a critical role in giving the NRC confidence that Licensees and CP holders are maintaining an adequate level of public health and safety and common defense and security. While compliance with NRC requirements presumptively ensures adequate protection, new information may reveal that additional requirements are warranted. In such situations, the Commission may act in accordance with its statutory authority under Section 161 of the Atomic Energy Act of 1954, as amended, to require Licensees and CP holders to take action in order to protect health and safety and common defense and security.

To protect public health and safety from the inadvertent release of radioactive materials, the NRC's defense-in-depth strategy includes multiple layers of protection: (1) Prevention of accidents by virtue of the design, construction, and operation of the plant; (2) mitigation features to prevent radioactive releases should an accident occur; and (3) emergency preparedness programs that include measures such as sheltering and evacuation. The defense-in-depth strategy also provides for multiple physical barriers to contain the

radioactive materials in the event of an accident. The barriers are the fuel cladding, the reactor coolant pressure boundary, and the containment. These defense-in-depth features are embodied in the existing regulatory requirements and thereby provide adequate protection of public health and safety.

In the case of spent fuel pools, compliance with existing regulations and guidance presumptively provides reasonable assurance of the safe storage of spent fuel. In particular, Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR part 50 establishes the general design criteria (GDC) for nuclear power plants. All currently operating reactors were licensed to the GDC or meet the intent of the GDC. The GDC provide the design features of the spent fuel storage and handling systems and the protection of these systems from natural phenomena and operational events. The accidents considered during licensing of U.S. nuclear power plants typically include failure of the forced cooling system and loss of spent fuel pool inventory at a specified rate within the capacity of the makeup water system. Further, spent fuel pools at U.S. nuclear power plants rely on maintenance of an adequate inventory of water under accident conditions to provide containment, as well as the cooling and shielding safety functions.

During the events in Fukushima, responders were without reliable instrumentation to determine water level in the spent fuel pool. This caused concerns that the pool may have boiled dry, resulting in fuel damage.[2] Fukushima demonstrated the confusion and misapplication of resources that can result from beyond-design-basis external events when adequate instrumentation is not available.

The spent fuel pool level instrumentation at U.S. nuclear power plants is typically narrow range and, therefore, only capable of monitoring normal and slightly off-normal conditions. Although the likelihood of a catastrophic event affecting nuclear power plants and the associated spent fuel pools in the United States remains very low, beyond-design-basis external events could challenge the ability of existing instrumentation to provide emergency responders with reliable information on the condition of spent fuel pools. Reliable and available indication is essential to ensure plant personnel can effectively prioritize emergency actions.

The Commission has determined that the spent fuel pool instrumentation required by this Order represents a significant enhancement to the protection of public health and safety and is an appropriate response to the insights from the Fukushima Dai-ichi accident. While this consideration is qualitative in nature, the Commission has long taken the position that the determination as to whether proposed backfits represent a substantial safety improvement may be qualitative in nature. Staff Requirements Memorandum, SECY–93–086, ''Backfit Considerations'' (June 30, 1993), pp. 1–2. However the Commission does not, at this time, have sufficient information to complete a full backfit analysis of the spent fuel pool instrumentation that would be required by this Order. The NRC is analyzing the insights gained from the Fukushima Dai-ichi accident on an accelerated timeline. Additionally, the NRC has considered the Congressional intent that the agency act expeditiously on Tier 1 recommendations.

The Commission has recognized, in exceptional circumstances, that some proposed rules may not meet the requirements specified in the Backfit Rule but nevertheless should be adopted by the NRC. Hence, the Commission advised the NRC staff that it would consider, on a case-by-case basis, whether a proposed regulatory action should be adopted as an ''exception'' to the Backfit Rule. This Order represents such a case. Therefore, the Commission has decided to administratively exempt this Order from the Backfit Rule and the issue finality requirements in 10 CFR 52.63 and 10 CFR part 52, Appendix D, paragraph VIII for several reasons.

The Fukushima Dai-ichi accident was unprecedented in terms of initiating cause and the particular failure sequence. In addition, our review of this event has highlighted the benefits that can be derived from the availability of more diverse instrumentation. Consistent with the final Aircraft Impact Assessment Rule, 10 CFR 50.150, 74 FR 28112 (June 12, 2009), the Commission's decision to administratively exempt this Order from compliance with the Backfit Rule is a highly exceptional action limited to the insights associated with the extraordinary underlying circumstances of the Fukushima Dai-ichi accident and the NRC's lessons learned. Furthermore, the extensive stakeholder engagement and broad endorsement for timely action support the Commission's judgment that immediate action to commence implementation of the spent fuel monitoring requirements is warranted at this time. In addition, pursuant to 10 CFR 2.202, the NRC finds that the public health, safety, and interest require that this Order be made immediately effective.

Based upon the considerations set forth above, the Commission has determined that all power reactor licensees and CP holders must have a reliable means of remotely monitoring wide-range spent fuel pool levels to support effective prioritization of event mitigation and recovery actions in the event of a beyond-design-basis external event. These new requirements provide a greater capability, consistent with the overall defense-in-depth philosophy, and therefore greater assurance of protection of public health and safety from the challenges posed by beyond-design-basis external events to power reactors. Accordingly, the Commission concludes that all operating reactor licensees and CPs under Part 50 identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. All combined licenses (COLs) under Part 52 identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 3 to this Order.

**IV**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR parts 50 and 52, *it is hereby ordered, effective immediately, that all licenses and construction permits identified in attachment 1 to this order are modified as follows:*

A.1. All holders of CPs issued under Part 50 shall, notwithstanding the provisions of any Commission regulation or CP to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the CP. These CP holders shall complete full implementation prior to issuance of an operating license.

2. All holders of operating licenses issued under Part 50 shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the license. These Licensees shall promptly start implementation of the requirements in Attachment 2 to the Order and shall complete full implementation no later than two (2) refueling cycles after submittal of the overall integrated plan, as required in Condition C.1.a, or December 31, 2016, whichever comes first.

3. All holders of COLs issued under Part 52 shall, notwithstanding the provisions of

[2] *See Institute of Nuclear Power Operations (INPO) 11–005, ''Special Report on the Nuclear Accident at the Fukushima Daiichi Nuclear Power Station,'' Revision 0, issued November 2011, p. 36.*

any Commission regulation or license to the contrary, comply with the requirements described in Attachment 3 to this Order except to the extent that a more stringent requirement is set forth in the license. These Licensees shall promptly start implementation of the requirements in Attachment 3 to the Order and shall complete full implementation prior to initial fuel load.

B.1. All Licensees and CP holders shall, within twenty (20) days of the date of this Order, notify the Commission (1) if they are unable to comply with any of the requirements described in Attachment 2 or Attachment 3, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee or CP holder to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensee's or CP holder's justification for seeking relief from or variation of any specific requirement.

2. Any Licensee or CP holder that considers that implementation of any of the requirements described in Attachment 2 or Attachment 3 to this Order would adversely impact safe and secure operation of the facility must notify the Commission, within twenty (20) days of this Order, of the adverse impact, the basis for its determination that the requirement has an adverse impact, and either a proposal for achieving the same objectives specified in the Attachment 2 or Attachment 3 requirement in question, or a schedule for modifying the facility to address the adverse condition. If neither approach is appropriate, the Licensee or CP holder must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C.1.a. All holders of operating licenses issued under Part 50 shall by February 28, 2013, submit to the Commission for review an overall integrated plan, including a description of how compliance with the requirements described in Attachment 2 will be achieved.

b. All holders of CPs issued under Part 50 or COLs issued under Part 52 shall, within one (1) year after issuance of the final ISG, submit to the Commission for review an overall integrated plan, including a description of how compliance with the requirements described in Attachment 2 or Attachment 3 will be achieved.

2. All Licensees and CP holders shall provide an initial status report sixty (60) days after the issuance of the final ISG, and at six (6)-month intervals following submittal of the overall integrated plan, as required in Condition C.1, which delineates progress made in implementing the requirements of this Order.

3. All Licensees and CP holders shall report to the Commission when full compliance with the requirements described in Attachment 2 or Attachment 3 is achieved.

Licensee or CP holder responses to Conditions B.1, B.2, C.1, C.2, and C.3, above, shall be submitted in accordance with 10 CFR 50.4 and 10 CFR 52.3, as applicable.

As applicable, the Director, Office of Nuclear Reactor Regulation or the Director, Office of New Reactors may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee or CP holder of good cause.

**V**

In accordance with 10 CFR 2.202, the Licensee or CP holder must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation or to the Director, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order.

If a hearing is requested by a Licensee, CP holder, or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, CP holder, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at

*http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than the Licensee or CP holder requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 12th day of March 2012.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

**Michael R. Johnson,**

*Director, Office of New Reactors.*

**Power Reactor Licensees and Licensees With Active and/or Deferred Construction Permits**

*Arkansas Nuclear One*

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368 License Nos. DPR–51 and NPF–6

Mr. Christopher J. Schwarz, Vice President, Operations, Entergy Operations, Inc., Arkansas Nuclear One, 1448 S.R. 333, Russellville, AR 72802

*Beaver Valley Power Station*

First Energy Nuclear Operating Co., Docket Nos. 50–334 and 50–412, License Nos. DPR–66 and NPF–73

Mr. Paul A. Harden, Site Vice President, FirstEnergy Nuclear Operating Company, Mail Stop A–BV–SEB1, P.O. Box 4, Route 168, Shippingport, PA 15077

*Bellefonte Nuclear Power Station*

Tennessee Valley Authority, Docket Nos. 50–438 and 50–439, Construction Permit Nos. CPPR No. 122 and CPPR No. 123

Mr. Michael D. Skaggs, Senior Vice President, Nuclear Generation Development and Construction, Tennessee Valley Authority, 6A Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Braidwood Station*

Exelon Generation Co., LLC, Docket Nos. STN 50–456 and STN 50–457, License Nos. NPF–72 and NPF–77

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Browns Ferry Nuclear Plant*

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, License Nos. DPR–33, DPR–52 and DPR–68

Mr. Preston D. Swafford, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, 3R Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Brunswick Steam Electric Plant*

Carolina Power & Light Co., Docket Nos. 50–325 and 50–324, License Nos. DPR–71 and DPR–62

Mr. Michael J. Annacone, Vice President, Carolina Power & Light Company, Brunswick Steam Electric Plant, P. O. Box 10429, Southport, NC 28461

*Byron Station*

Exelon Generation Co., LLC, Docket Nos. STN 50–454 and STN 50–455, License Nos. NPF–37 and NPF–66

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Callaway Plant*

Union Electric Co., Docket No. 50–483, License No. NPF–30

Mr. Adam C. Heflin, Senior Vice President and Chief Nuclear Officer, Union Electric Company, P. O. Box 620, Fulton, MO 65251

*Calvert Cliffs Nuclear Power Plant*

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317 and 50–318, License Nos. DPR–53 and DPR–69

Mr. George H. Gellrich, Vice President, Calvert Cliffs Nuclear Power Plant, LLC, Calvert Cliffs Nuclear Power Plant, 1650 Calvert Cliffs Parkway, Lusby, MD 20657–4702

*Catawba Nuclear Station*

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, License Nos. NPF–35 and NPF–52

Mr. James R. Morris, Site Vice President, Duke Energy Carolinas, LLC, Catawba Nuclear Station, 4800 Concord Road, York, SC 29745

*Clinton Power Station*

Exelon Generation Co., LLC, Docket No. 50–461, License No. NPF–62

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Columbia Generating Station*

Energy Northwest, Docket No. 50–397, License No. NPF–21

Mr. Mark E. Reddemann, Chief Executive Officer, Energy Northwest, MD 1023, P.O. Box 968, Richland, WA 99352

*Comanche Peak Nuclear Power Plant*

Luminant Generation Co., LLC, Docket Nos. 50–445 and 50–446, License Nos. NPF–87 and NPF–89

Mr. Rafael Flores, Senior Vice President and Chief Nuclear Officer, Luminant Generation Company, LLC, Attn: Regulatory Affairs, P. O. Box 1002, Glen Rose, TX 76043

*Cooper Nuclear Station*

Nebraska Public Power District, Docket No. 50–298, License No. DPR–46

Mr. Brian J. O'Grady, Vice President—Nuclear and Chief Nuclear Officer, Nebraska Public Power District, 72676 648A Avenue, P.O. Box 98, Brownville, NE 68321

*Crystal River Nuclear Generating Plant*

Florida Power Corp., Docket No. 50–302, License No. DPR–72

Mr. Jon A. Franke, Vice President, Attn: Supervisor, Licensing & Regulatory Affairs, Progress Energy, Inc., Crystal River Nuclear Plant (NA2C), 15760 West Power Line Street, Crystal River, FL 34428–6708

*Davis-Besse Nuclear Power Station*

First Energy Nuclear Operating Co., Docket No. 50–346, License No. NPF–3

Mr. Barry S. Allen, Site Vice President, FirstEnergy Nuclear Operating Company, c/o Davis-Besse NPS, 5501 N. State Route 2, Oak Harbor, OH 43449–9760

*Diablo Canyon Power Plant*

Pacific Gas & Electric Co., Docket Nos. 50–275 and 50–323, License Nos. DPR–80 and DPR–82

Mr. John T. Conway, Senior Vice President—Energy Supply and Chief Nuclear Officer, Pacific Gas and Electric Company, Diablo Canyon Power Plant, 77 Beale Street, Mail Code B32, San Francisco, CA 94105

*Donald C. Cook Nuclear Plant*

Indiana Michigan Power Co., Docket Nos. 50–315 and 50–316, License Nos. DPR–58 and DPR–74

Mr. Lawrence J. Weber, Senior Vice President and Chief Nuclear Officer, Indiana Michigan Power Company, Nuclear Generation Group, One Cook Place, Bridgman, MI 49106

*Dresden Nuclear Power Station*

Exelon Generation Co., LLC, Docket Nos. 50–237 and 50–249, License Nos. DPR–19 and DPR–25

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Duane Arnold Energy Center*

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, License No. DPR–49

Mr. Peter Wells, Site Vice President, NextEra Energy, Duane Arnold Energy Center, 3277 DAEC Road, Palo, IA 52324–9785

*Edwin I. Hatch Nuclear Plant*

Southern Nuclear Operating Co., Docket Nos. 50–321 and 50–366, License Nos. DPR–57 and NPF–5

Mr. Dennis R. Madison, Vice President, Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, 11028 Hatch Parkway North, Baxley, GA 31513

*Fermi*

Detroit Edison Co., Docket No. 50–341, License No. NPF–43

Mr. Jack M. Davis, Senior Vice President and Chief Nuclear Officer, Detroit Edison Company, Fermi 2—210 NOC, 6400 North Dixie Highway, Newport, MI 48166

*Fort Calhoun Station*

Omaha Public Power District, Docket No. 50–285, License No. DPR–40

Mr. David J. Bannister, Vice President and Chief Nuclear Officer, Omaha Public Power District, 444 South 16th St. Mall, Omaha, NE 68102–2247

*Grand Gulf Nuclear Station*

Entergy Operations, Inc., Docket No. 50–416, License No. NPF–29

Mr. Michael Perito, Vice President, Operations, Entergy Operations, Inc., Grand Gulf Nuclear Station, Unit 1, 7003 Bald Hill Road, Port Gibson, MS 39150

*H.B. Robinson Steam Electric Plant*

Carolina Power & Light Co., Docket No. 50–261, License No. DPR–23

Mr. Robert J. Duncan II, Vice President, Carolina Power & Light Company, 3581 West Entrance Road, Hartsville, SC 29550

*Hope Creek Generating Station*

PSEG Nuclear, LLC, Docket No. 50–354, License No. NPF–57

Mr. Thomas Joyce, President and Chief Nuclear Officer, PSEG Nuclear LLC—N09, P. O. Box 236, Hancocks Bridge, NJ 08038

*Indian Point Energy Center*

Entergy Nuclear Operations, Inc., Docket Nos. 50–247 and 50–286, License Nos. DPR–26 and DPR–64

Mr. John Ventosa, Vice President, Operations, Entergy Nuclear Operations, Inc., Indian Point Energy Center, 450 Broadway, GSB, P.O. Box 249, Buchanan, NY 10511–0249

*James A. FitzPatrick Nuclear Power Plant*

Entergy Nuclear Operations, Inc., Docket No. 50–333, License No. DPR–59

Mike Colomb, Vice President, Operations, Entergy Nuclear Operations, Inc., James A. FitzPatrick Nuclear Power Plant, P.O. Box 110, Lycoming, NY 13093

*Joseph M. Farley Nuclear Plant*

Southern Nuclear Operating Co., Docket Nos. 50–348 and 50–364, License Nos. NPF–2 and NPF–8

Mr. Tom Lynch, Vice President—Farley, Southern Nuclear Operating Company, Inc., Joseph M. Farley Nuclear Plant, 7388 North State Highway 95, Columbia, AL 36319

*Kewaunee Power Station*

Dominion Energy Kewaunee, Inc., Docket No. 50–305, License No. DPR–43

Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion

Energy Kewaunee, Inc., Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*LaSalle County Station*

Exelon Generation Co., LLC, Docket Nos. 50–373 and 50–374, License Nos. NPF–11 and NPF–18
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Limerick Generating Station*

Exelon Generation Co., LLC, Docket Nos. 50–352 and 50–353, License Nos. NPF–39 and NPF–85
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Millstone Nuclear Power Station*

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 and 50–423, License Nos. DPR–65 and NPF–49
Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Nuclear Connecticut, Inc., Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*Monticello Nuclear Generating Plant*

Northern States Power Company, Docket No. 50–263, License No. DPR–22
Mr. Timothy J. O'Connor, Site Vice President, Northern States Power Company—Minnesota, Monticello Nuclear Generating Plant, 2807 West County Road 75, Monticello, MN 55362–9637

*Nine Mile Point Nuclear Station*

Nine Mile Point Nuclear Station, LLC, Docket Nos. 50–220 and 50–410, License Nos. DPR–63 and NPF–69
Mr. Ken Langdon, Vice President Nine Mile Point, Nine Mile Point Nuclear Station, LLC, P.O. Box 63, Lycoming, NY 13093

*North Anna Power Station*

Virginia Electric & Power Co., Docket Nos. 50–338 and 50–339, License Nos. NPF–4 and NPF–7
Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Nuclear, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*Oconee Nuclear Station*

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270 and 50–287, License Nos. DPR–38, DPR–47 and DPR–55
Mr. Preston Gillespie, Site Vice President, Oconee Nuclear Station, Duke Energy Carolinas, LLC, 7800 Rochester Highway, Seneca, SC 29672

*Oyster Creek Nuclear Generating Station*

Exelon Generation Co., LLC, Docket No. 50–219, License No. DPR–16
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Palisades Nuclear Plant*

Entergy Nuclear Operations, Inc., Docket No. 50–255, License No. DPR–20
Mr. Anthony J. Vitale, Site Vice President—Palisades, Entergy Nuclear Operations, Inc., Palisades Nuclear Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043

*Palo Verde Nuclear Generating Station*

Arizona Public Service Company, Docket Nos. STN 50–528, STN 50–529 and STN 50–530, License Nos. NPF–41, NPF–51 and NPF–74
Mr. Randall K. Edington, Executive Vice President Nuclear and Chief Nuclear Officer, Arizona Public Service Co., P.O. Box 52034, MS 7602, Phoenix, AZ 85072–2034

*Peach Bottom Atomic Power Station*

Exelon Generation Co., LLC, Docket Nos. 50–277 and 50–278, License Nos. DPR–44 and DPR–56
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Perry Nuclear Power Plant*

First Energy Nuclear Operating Co., Docket No. 50–440, License No. NPF–58
Mr. Vito A. Kaminskas, Site Vice President—Nuclear—Perry, FirstEnergy Nuclear Operating Company, Perry Nuclear Power Plant, 10 Center Road, A290, Perry, OH 44081

*Pilgrim Nuclear Power Station Unit No. 1*

Entergy Nuclear Operations, Inc., Docket No. 50–293, License No. DPR–35
Mr. Robert Smith, Vice President and Site Vice President, Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station, 600 Rocky Hill Road, Plymouth, MA 02360–5508

*Point Beach Nuclear Plant*

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, License Nos. DPR–24 and DPR–27
Mr. Larry Meyer, Site Vice President, NextEra Energy Point Beach, LLC, Point Beach Nuclear Plant, Units 1 & 2, 6610 Nuclear Road, Two Rivers, WI 54241–9516

*Prairie Island Nuclear Generating Plant*

Northern States Power Co. Minnesota, Docket Nos. 50–282 and 50–306, License Nos. DPR–42 and DPR–60
Mr. Mark A. Schimmel, Site Vice President, Northern States Power Company—Minnesota, Prairie Island Nuclear Generating Plant, 1717 Wakonade Drive East, Welch, MN 55089–9642

*Quad Cities Nuclear Power Station*

Exelon Generation Co., LLC, Docket Nos. 50–254 and 50–265, License Nos. DPR–29 and DPR–30
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*R.E. Ginna Nuclear Power Plant*

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, License No. DPR–18
Mr. Joseph E. Pacher, Vice President, R.E. Ginna Nuclear Power Plant, LLC, R.E. Ginna Nuclear Power Plant, 1503 Lake Road, Ontario, NY 14519

*River Bend Station*

Entergy Operations, Inc., Docket No. 50–458, License No. NPF–47
Mr. Eric W. Olson, Vice President, Operations, Entergy Operations, Inc., River Bend Station, 5485 U.S. Highway 61N, St. Francisville, LA 70775

*Salem Nuclear Generating Station*

PSEG Nuclear, LLC, Docket Nos. 50–272 and 50–311, License Nos. DPR–70 and DPR–75
Mr. Thomas Joyce, President and Chief Nuclear Officer, PSEG Nuclear LLC—N09, P.O. Box 236, Hancocks Bridge, NJ 08038

*San Onofre Nuclear Generating Station*

Southern California Edison Co., Docket Nos. 50–361 and 50–362, License Nos. NPF–10 and NPF–15
Mr. Peter T. Dietrich, Senior Vice President and Chief Nuclear Officer, Southern California Edison Company, San Onofre Nuclear Generating Station, P.O. Box 128, San Clemente, CA 92674–0128

*Seabrook*

NextEra Energy Seabrook, LLC, Docket No. 50–443, License No. NPF–86
Mr. Paul Freeman, Site Vice President, NextEra Energy Seabrook, LLC, c/o

Mr. Michael O'Keefe, NextEra Energy Seabrook, LLC, P.O. Box 300, Seabrook, NH 03874

*Sequoyah Nuclear Plant*

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, License Nos. DPR–77 and DPR–79
Mr. Preston D. Swafford, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, 3R Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Shearon Harris Nuclear Power Plant*

Carolina Power & Light Co., Docket No. 50–400, License No. NPF–63
Mr. Christopher L. Burton, Vice President, Progress Energy Carolinas, Inc., Shearon Harris Nuclear Power Plant, P.O. Box 165, Mail Zone 1, New Hill, NC 27562–0165

*South Texas Project*

STP Nuclear Operating Co., Docket Nos. 50–498 and 50–499, License Nos. NPF–76 and NPF–80
Mr. Edward D. Halpin, President, Chief Executive Officer and Chief Nuclear Officer, STP Nuclear Operating Company, South Texas Project, P.O. Box 289, Wadsworth, TX 77483

*St. Lucie Plant*

Florida Power & Light Co., Docket Nos. 50–335 and 50–389, License Nos. DPR–67 and NPF–16
Mr. Mano Nazar, Executive Vice President and Chief Nuclear Officer, NextEra Energy, 700 Universe Boulevard, P.O. Box 14000, Juno Beach, FL 33408–0420

*Surry Power Station*

Virginia Electric & Power Co., Docket Nos. 50–280 and 50–281, License Nos. DPR–32 and DPR–37
Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Nuclear, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*Susquehanna Steam Electric Station*

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, License Nos. NPF–14 and NPF–22
Mr. Timothy S. Rausch, Senior Vice President and Chief Nuclear Officer, PPL Susquehanna, LLC, 769 Salem Boulevard, NUCSB3, Berwick, PA 18603–0467

*Three Mile Island Nuclear Station, Unit 1*

(* via corrected letter dated 3/13/12—ML12073A366), Exelon Generation Co., LLC, Docket No. 50–289, License No. DPR–50
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Turkey Point*

Florida Power & Light Co., Docket Nos. 50–250 and 50–251, License Nos. DPR–31 and DPR–41
Mr. Mano Nazar, Executive Vice President and Chief Nuclear Officer, NextEra Energy, 700 Universe Boulevard, P.O. Box 14000, Juno Beach, FL 33408–0420

*Vermont Yankee Nuclear Power Station*

Entergy Nuclear Operations, Inc., Docket No. 50–271, License No. DPR–28
Mr. Christopher J. Wamser, Site Vice President, Entergy Nuclear Operations, Inc., Vermont Yankee Nuclear Power Station, 320 Governor Hunt Road, Vernon, VT 05354

*Virgil C. Summer Nuclear Station*

South Carolina Electric & Gas Co., Docket No. 50–395, License No. NPF–12
Mr. Thomas D. Gatlin, Vice President Nuclear Operations, South Carolina Electric & Gas Company, Virgil C. Summer Nuclear Station, Post Office Box 88, Mail Code 300, Jenkinsville, SC 29065

*Vogtle Electric Generating Plant*

Southern Nuclear Operating Co., Docket Nos. 50–424 and 50–425, License Nos. NPF–68 and NPF–81
Mr. Tom E. Tynan, Vice President, Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, 7821 River Road, Waynesboro, GA 30830

*Vogtle Electric Generating Plant, Units 3 and 4*

Southern Nuclear Operating Co., Docket Nos. 52–025 and 52–026, License Nos. NPF–91 and NPF–92
Mr. B.L. Ivey, Vice President, Regulatory Affairs, Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Bin B022, Birmingham, AL 35242

*Waterford Steam Electric Station*

Entergy Operations, Inc., Docket No. 50–382, License No. NPF–38
Ms. Donna Jacobs, Vice President, Operations, Entergy Operations, Inc., Waterford Steam Electric Station, Unit 3, 17265 River Road, Killona, LA 70057–0751

*Watts Bar Nuclear Plant, Unit 1*

Tennessee Valley Authority, Docket No. 50–390, License No. NPF–90
Mr. Preston D. Swafford, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, 3R Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Watts Bar Nuclear Plant, Unit 2*

Tennessee Valley Authority, Docket No. 50–391, Construction Permit No. CPPR No. 092
Mr. Michael D. Skaggs, Senior Vice President, Nuclear Generation Development and Construction, Tennessee Valley Authority, 6A Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*William B. McGuire Nuclear Station*

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, License Nos. NPF–9 and NPF–17
Mr. Regis T. Repko, Vice President, Duke Energy Carolinas, LLC, McGuire Nuclear Site, 12700 Hagers Ferry Road, Huntersville, NC 28078

*Wolf Creek Generating Station*

Wolf Creek Nuclear Operating Corp., Docket No. 50–482, License No. NPF–42
Mr. Matthew W. Sunseri, President and Chief Executive Officer, Wolf Creek Nuclear Operating Corporation, P.O. Box 411, Burlington, KS 66839

**Requirements for Reliable Spent Fuel Pool Level Instrumentation at Operating Reactor Sites and Construction Permit Holders**

All licensees identified in Attachment 1 to this Order shall have a reliable indication of the water level in associated spent fuel storage pools capable of supporting identification of the following pool water level conditions by trained personnel: (1) Level that is adequate to support operation of the normal fuel pool cooling system, (2) level that is adequate to provide substantial radiation shielding for a person standing on the spent fuel pool operating deck, and (3) level where fuel remains covered and actions to implement make-up water addition should no longer be deferred.

1. The spent fuel pool level instrumentation shall include the following design features:

1.1 Instruments: The instrumentation shall consist of a permanent, fixed primary instrument channel and a backup instrument channel. The backup instrument channel may be fixed or portable. Portable instruments shall have capabilities that enhance the ability of trained personnel to monitor spent fuel pool water level under conditions that restrict direct personnel access to the

pool, such as partial structural damage, high radiation levels, or heat and humidity from a boiling pool.

1.2 Arrangement: The spent fuel pool level instrument channels shall be arranged in a manner that provides reasonable protection of the level indication function against missiles that may result from damage to the structure over the spent fuel pool. This protection may be provided by locating the primary instrument channel and fixed portions of the backup instrument channel, if applicable, to maintain instrument channel separation within the spent fuel pool area, and to utilize inherent shielding from missiles provided by existing recesses and corners in the spent fuel pool structure.

1.3 Mounting: Installed instrument channel equipment within the spent fuel pool shall be mounted to retain its design configuration during and following the maximum seismic ground motion considered in the design of the spent fuel pool structure.

1.4 Qualification: The primary and backup instrument channels shall be reliable at temperature, humidity, and radiation levels consistent with the spent fuel pool water at saturation conditions for an extended period. This reliability shall be established through use of an augmented quality assurance process (e.g., a process similar to that applied to the site fire protection program).

1.5 Independence: The primary instrument channel shall be independent of the backup instrument channel.

1.6 Power supplies: Permanently installed instrumentation channels shall each be powered by a separate power supply. Permanently installed and portable instrumentation channels shall provide for power connections from sources independent of the plant ac and dc power distribution systems, such as portable generators or replaceable batteries. Onsite generators used as an alternate power source and replaceable batteries used for instrument channel power shall have sufficient capacity to maintain the level indication function until offsite resource availability is reasonably assured.

1.7 Accuracy: The instrument channels shall maintain their designed accuracy following a power interruption or change in power source without recalibration.

1.8 Testing: The instrument channel design shall provide for routine testing and calibration.

1.9 Display: Trained personnel shall be able to monitor the spent fuel pool water level from the control room, alternate shutdown panel, or other appropriate and accessible location. The display shall provide on-demand or continuous indication of spent fuel pool water level.

2. The spent fuel pool instrumentation shall be maintained available and reliable through appropriate development and implementation of the following programs:

2.1 Training: Personnel shall be trained in the use and the provision of alternate power to the primary and backup instrument channels.

2.2 Procedures: Procedures shall be established and maintained for the testing, calibration, and use of the primary and backup spent fuel pool instrument channels.

2.3 Testing and Calibration: Processes shall be established and maintained for scheduling and implementing necessary testing and calibration of the primary and backup spent fuel pool level instrument channels to maintain the instrument channels at the design accuracy.

**Requirements for Reliable Spent Fuel Pool Level Instrumentation at Combined License Holder Reactor Sites**

Attachment 2 to this Order for Part 50 Licensees requires reliable indication of the water level in associated spent fuel storage pools capable of supporting identification of the following pool water level conditions by trained personnel: (1) level that is adequate to support operation of the normal fuel pool cooling system, (2) level that is adequate to provide substantial radiation shielding for a person standing on the spent fuel pool operating deck, and (3) level where fuel remains covered and actions to implement make-up water addition should no longer be deferred.

The design bases of Vogtle Units 3 and 4 address many of these attributes of spent fuel pool level instrumentation. The NRC staff reviewed these design features prior to issuance of the combined licenses for these facilities and certification of the AP1000 design referenced therein. The AP1000 certified design largely addresses the requirements in Attachment 2 by providing two safety-related spent fuel pool level instrument channels. The instruments measure level from the top of the spent fuel pool to the top of the fuel racks to address the range requirements listed above. The safety-related classification provides for the following additional design features:

- Seismic and environmental qualification of the instruments
- Independent power supplies
- Electrical isolation and physical separation between instrument channels
- Display in the control room as part of the post-accident monitoring instrumentation
- Routine calibration and testing

As such, this Order requires Vogtle Units 3 and 4 to address the following requirements that were not specified in the certified design.

1. The spent fuel pool level instrumentation shall include the following design features:

1.1 Arrangement: The spent fuel pool level instrument channels shall be arranged in a manner that provides reasonable protection of the level indication function against missiles that may result from damage to the structure over the spent fuel pool. This protection may be provided by locating the safety-related instruments to maintain instrument channel separation within the spent fuel pool area, and to utilize inherent shielding from missiles provided by existing recesses and corners in the spent fuel pool structure.

1.2 Qualification: The level instrument channels shall be reliable at temperature, humidity, and radiation levels consistent with the spent fuel pool water at saturation conditions for an extended period.

1.3 Power supplies: Instrumentation channels shall provide for power connections from sources independent of the plant alternating current (ac) and direct current (dc) power distribution systems, such as portable generators or replaceable batteries. Power supply designs should provide for quick and accessible connection of sources independent of the plant ac and dc power distribution systems. Onsite generators used as an alternate power source and replaceable batteries used for instrument channel power shall have sufficient capacity to maintain the level indication function until offsite resource availability is reasonably assured.

1.4 Accuracy: The instrument shall maintain its designed accuracy following a power interruption or change in power source without recalibration.

1.5 Display: The display shall provide on-demand or continuous indication of spent fuel pool water level.

2. The spent fuel pool instrumentation shall be maintained available and reliable through appropriate development and implementation of a training program. Personnel shall be trained in the use and the provision of alternate power to the safety-related level instrument channels.

[FR Doc. 2012–6550 Filed 3–16–12; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2012–0068]**

## Order Modifying Licenses With Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events (Effective Immediately)

In the Matter of:

ALL POWER REACTOR LICENSEES AND HOLDERS OF CONSTRUCTION PERMITS IN ACTIVE OR DEFERRED STATUS.

Docket Nos. (as shown in Attachment 1) License Nos. (as shown in Attachment 1) or Construction Permit Nos. (as shown in Attachment 1))

EA–12–049

### I

The Licensees and construction permits (CP) holders [1] identified in Attachment 1 to this Order hold licenses and CPs issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing operation and/or construction of nuclear power plants in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations (10 CFR) Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

### II

On March 11, 2011, a magnitude 9.0 earthquake struck off the coast of the Japanese island of Honshu. The earthquake resulted in a large tsunami, estimated to have exceeded 14 meters (45 feet) in height, that inundated the Fukushima Dai-ichi nuclear power plant site. The earthquake and tsunami produced widespread devastation across northeastern Japan and significantly affected the infrastructure and industry in the northeastern coastal areas of Japan.

When the earthquake occurred, Fukushima Dai-ichi Units 1, 2, and 3 were in operation and Units 4, 5, and 6 were shut down for routine refueling and maintenance activities. The Unit 4 reactor fuel was offloaded to the Unit 4 spent fuel pool (SFP). Following the earthquake, the three operating units automatically shut down and offsite power was lost to the entire facility. The emergency diesel generators (EDGs) started at all six units providing alternating current (ac) electrical power to critical systems at each unit. The facility response to the earthquake appears to have been normal.

Approximately 40 minutes following the earthquake and shutdown of the operating units, the first large tsunami wave inundated the site, followed by additional waves. The tsunami caused extensive damage to site facilities and resulted in a complete loss of all ac electrical power at Units 1 through 5, a condition known as station blackout. In addition, all direct current electrical power was lost early in the event on Units 1 and 2 and after some period of time at the other units. Unit 6 retained the function of one air-cooled EDG. Despite their actions, the operators lost the ability to cool the fuel in the Unit 1 reactor after several hours, in the Unit 2 reactor after about 70 hours, and in the Unit 3 reactor after about 36 hours, resulting in damage to the nuclear fuel shortly after the loss of cooling capabilities.

Following the events at the Fukushima Dai-ichi nuclear power plant, the NRC established a senior-level agency task force referred to as the Near-Term Task Force (NTTF). The NTTF was tasked with conducting a systematic and methodical review of the NRC regulations and processes and determining if the agency should make additional improvements to these programs in light of the events at Fukushima Dai-ichi. As a result of this review, the NTTF developed a comprehensive set of recommendations, documented in SECY–11–0093, ''Near-Term Report and Recommendations for Agency Actions Following the Events in Japan,'' dated July 12, 2011. These recommendations were enhanced by the NRC staff following interactions with stakeholders. Documentation of the staff's efforts is contained in SECY–11–0124, ''Recommended Actions to be Taken Without Delay From the Near-Term Task Force Report,'' dated September 9, 2011, and SECY–11–0137, ''Prioritization of Recommended Actions to be Taken in Response to Fukushima Lessons Learned,'' dated October 3, 2011.

As directed by the Commission's staff requirements memorandum (SRM) for SECY–11–0093, the NRC staff reviewed the NTTF recommendations within the context of the NRC's existing regulatory framework and considered the various regulatory vehicles available to the NRC to implement the recommendations. SECY–11–0124 and SECY–11–0137 established the staff's prioritization of the recommendations based upon the potential safety enhancements.

Since receiving the Commission's direction in SRM–SECY–11–0124 and SRM–SECY–11–0137, the NRC staff conducted public meetings to discuss enhanced mitigation strategies intended to maintain or restore core cooling, containment, and SFP cooling capabilities following beyond-design-basis external events. At these meetings, the industry described its proposal for a Diverse and Flexible Mitigation Capability (FLEX), as documented in the Nuclear Energy Institute's (NEI's) letter dated December 16, 2011 (Agency Documents Access and Management System (ADAMS) Accession No. ML11353A008). FLEX is proposed as a strategy to fulfill the key safety functions of core cooling, containment integrity, and spent fuel cooling. Stakeholder input influenced the staff to pursue a more performance-based approach to improve the safety of operating power reactors than envisioned in NTTF Recommendation 4.2, SECY–11–0124, and SECY–11–0137.

Current regulatory requirements and existing plant capabilities allow the NRC to conclude that a sequence of events such as the Fukushima Dai-ichi accident is unlikely to occur in the U.S. Therefore, continued operation and continued licensing activities do not pose an imminent threat to public health and safety. However, NRC's assessment of new insights from the events at Fukushima Dai-ichi leads the staff to conclude that additional requirements must be imposed on Licensees or CP holders to increase the

[1] *CP holders, as used in this Order, includes CPs, in active or deferred status, as identified in Attachment 1 to this Order (i.e., Watts Bar, Unit 2; and Bellefonte, Units 1 and 2)*

capability of nuclear power plants to mitigate beyond-design-basis external events. These additional requirements are needed to provide adequate protection to public health and safety, as set forth in Section III of this Order.

Guidance and strategies required by this Order would be available if the loss of power, motive force, and normal access to the ultimate heat sink to prevent fuel damage in the reactor and SFP, affected all units at a site simultaneously. This Order requires a three-phase approach for mitigating beyond-design-basis external events. The initial phase requires the use of installed equipment and resources to maintain or restore core cooling, containment, and SFP cooling. The transition phase requires providing sufficient, portable, onsite equipment and consumables to maintain or restore these functions until they can be accomplished with resources brought from off site. The final phase requires obtaining sufficient offsite resources to sustain those functions indefinitely.

Additional details on an acceptable approach for complying with this Order will be contained in final Interim Staff Guidance (ISG) scheduled to be issued by the NRC in August 2012. This guidance will also include a template to be used for the plan that will be submitted in accordance with Section IV, Condition C.1 below.

**III**

Reasonable assurance of adequate protection of the public health and safety and assurance of the common defense and security are the fundamental NRC regulatory objectives. Compliance with NRC requirements plays a critical role in giving the NRC confidence that Licensees or CP holders are maintaining an adequate level of public health and safety and common defense and security. While compliance with NRC requirements presumptively assures adequate protection, new information may reveal that additional requirements are warranted. In such situations, the Commission may act in accordance with its statutory authority under Section 161 of the Atomic Energy Act of 1954, as amended, to require Licensees or CP holders to take action in order to protect health and safety and common defense and security.

To protect public health and safety from the inadvertent release of radioactive materials, the NRC's defense-in-depth strategy includes multiple layers of protection: (1) Prevention of accidents by virtue of the design, construction, and operation of the plant; (2) mitigation features to prevent radioactive releases should an accident occur; and (3) emergency preparedness programs that include measures such as sheltering and evacuation. The defense-in-depth strategy also provides for multiple physical barriers to contain the radioactive materials in the event of an accident. The barriers are the fuel cladding, the reactor coolant pressure boundary, and the containment. These defense-in-depth features are embodied in the existing regulatory requirements and thereby provide adequate protection of the public health and safety.

Following the events of September 11, 2001, the NRC issued Order EA–02–026, dated February 25, 2002, which required Licensees to develop mitigating strategies related to the key safety functions of core cooling, containment, and SFP cooling. NEI Document 06–12, ''B.5.b Phase 2 & 3 Submittal Guideline'' (ADAMS Accession No. ML070090060) provides guidelines that describe the necessary mitigating strategies. The NRC endorsed these guidelines in a letter dated December 22, 2006, designated as Official Use Only. Those mitigating strategies were developed in the context of a localized event that was envisioned to challenge portions of a single unit. The events at Fukushima, however, demonstrate that beyond-design-basis external events may adversely affect: (1) More than one unit at a site with two or more units, and (2) multiple safety functions at each of several units located on the same site.

The events at Fukushima further highlight the possibility that extreme natural phenomena could challenge the prevention, mitigation, and emergency preparedness defense-in-depth layers. To address the uncertainties associated with beyond-design-basis external events, the NRC is requiring additional defense-in-depth measures at licensed nuclear power reactors so that the NRC can continue to have reasonable assurance of adequate protection of public health and safety in mitigating the consequences of a beyond-design-basis external event.

The strategies and guidance developed and implemented by Licensees or CP holders in response to the requirements imposed by this Order will provide the necessary capabilities to supplement those of the permanently installed plant structures, systems, and components that could become unavailable following beyond-design-basis external events. These strategies and guidance will enhance the safety and preparedness capabilities established following September 11, 2001, and codified as 10 CFR 50.54(hh)(2). In order to address the potential for more widespread effects of beyond design basis external events, this Order requires strategies with increased capacity to implement protective actions concurrently at multiple units at a site. The strategies shall be developed to add multiple ways to maintain or restore core cooling, containment and SFP cooling capabilities in order to improve the defense-in-depth of licensed nuclear power reactors.

The Commission has determined that ensuring adequate protection of public health and safety requires that power reactor Licensees and CP holders develop, implement and maintain guidance and strategies to restore or maintain core cooling, containment, and SFP cooling capabilities in the event of a beyond-design-basis external event. These new requirements provide a greater mitigation capability consistent with the overall defense-in-depth philosophy, and, therefore, greater assurance that the challenges posed by beyond-design-basis external events to power reactors do not pose an undue risk to public health and safety. In order to provide reasonable assurance of adequate protection of public health and safety, all operating reactor licenses and CPs under Part 50 identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. All combined licenses (COLs) under 10 CFR part 52 identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 3 to this Order.

Accordingly, the NRC has concluded that these measures are necessary to ensure adequate protection of public health and safety under the provisions of the backfit rule, 10 CFR 50.109(a)(4)(ii), and is requiring Licensee or CP holder action. In addition, pursuant to 10 CFR 2.202, the NRC finds that the public health, safety and interest require that this Order be made immediately effective.

**IV**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR Parts 50 and 52, *it is hereby ordered, effective immediately, that all licenses and construction permits identified in attachment 1 to this order are modified as follows:*

A. 1. All holders of CPs issued under Part 50 shall, notwithstanding the provisions of any Commission regulation or CPs to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent

requirement is set forth in the CP. These CP holders shall complete full implementation prior to issuance of an operating license.

2. All holders of operating licenses issued under Part 50 shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the license. These Licensees shall promptly start implementation of the requirements in Attachment 2 to the Order and shall complete full implementation no later than two (2) refueling cycles after submittal of the overall integrated plan, as required in Condition C.1.a, or December 31, 2016, whichever comes first.

3. All holders of COLs issued under Part 52 shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 3 to this Order except to the extent that a more stringent requirement is set forth in the license. These Licensees shall promptly start implementation of the requirements in Attachment 3 to the Order and shall complete full implementation prior to initial fuel load.

B.1. All Licensees and CP holders shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2 or Attachment 3, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee or CP holder to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensee's or CP holder's justification for seeking relief from or variation of any specific requirement.

2. Any Licensee or CP holder that considers that implementation of any of the requirements described in Attachment 2 or Attachment 3 to this Order would adversely impact safe and secure operation of the facility must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachment 2 or Attachment 3 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee or CP holder must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C.1. a. All holders of operating licenses issued under Part 50 shall by February 28, 2013, submit to the Commission for review an overall integrated plan including a description of how compliance with the requirements described in Attachment 2 will be achieved.

b. All holders of CPs issued under Part 50 or COLs issued under Part 52 shall, within one (1) year after issuance of the final ISG, submit to the Commission for review an overall integrated plan including a description of how compliance with the requirements described in Attachment 2 or Attachment 3 will be achieved.

2. All Licensees and holders of CPs shall provide an initial status report sixty (60) days following issuance of the final ISG and at six (6)-month intervals following submittal of the overall integrated plan, as required in Condition C.1, which delineates progress made in implementing the requirements of this Order.

3. All Licensees and CP holders shall report to the Commission when full compliance with the requirements described in Attachment 2 or Attachment 3 is achieved.

Licensee or CP holders responses to Conditions B.1, B.2, C.1, C.2, and C.3, above shall be submitted in accordance with 10 CFR 50.4 and 10 CFR 52.3, as applicable.

As applicable, the Director, Office of Nuclear Reactor Regulation or the Director, Office of New Reactors may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee or CP holder of good cause.

**V**

In accordance with 10 CFR 2.202, the Licensee or CP holder must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation or to the Director, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order.

If a hearing is requested by a Licensee, CP holder or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the licensee, CP holder or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on

NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through the Electronic Information Exchange, users will be required to install a web browser plug-in from the NRC web site. Further information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than the Licensee or CP holder requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For The Nuclear Regulatory Commission.

Dated this 12th day of March 2012.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

**Michael R. Johnson,**

*Director, Office of New Reactors.*

**Power Reactor Licensees and Holders of Construction Permits in Active or Deferred Status**

*Arkansas Nuclear One*

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, License Nos. DPR–51 and NPF–6

Mr. Christopher J. Schwarz, Vice President, Operations, Entergy Operations, Inc., Arkansas Nuclear One, 1448 S.R. 333, Russellville, AR 72802

*Beaver Valley Power Station*

First Energy Nuclear Operating Co., Docket Nos. 50–334 and 50–412, License Nos. DPR–66 and NPF–73

Mr. Paul A. Harden, Site Vice President, FirstEnergy Nuclear Operating Company, Mail Stop A–BV–SEB1, P.O. Box 4, Route 168, Shippingport, PA 15077

*Bellefonte Nuclear Power Station*

Tennessee Valley Authority, Docket Nos. 50–438 and 50–439, Construction Permit Nos. CPPR No. 122 and CPPR No. 123

Mr. Michael D. Skaggs, Senior Vice President, Nuclear Generation Development and Construction, Tennessee Valley Authority, 6A Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Braidwood Station*

Exelon Generation Co., LLC, Docket Nos. STN 50–456 and STN 50–457, License Nos. NPF–72 and NPF–77
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Browns Ferry Nuclear Plant*

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, License Nos. DPR–33, DPR–52 and DPR–68
Mr. Preston D. Swafford, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, 3R Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Brunswick Steam Electric Plant*

Carolina Power & Light Co., Docket Nos. 50–325 and 50–324, License Nos. DPR–71 and DPR–62
Mr. Michael J. Annacone, Vice President, Carolina Power & Light Company, Brunswick Steam Electric Plant, P.O. Box 10429, Southport, NC 28461

*Byron Station*

Exelon Generation Co., LLC, Docket Nos. STN 50–454 and STN 50–455, License Nos. NPF–37 and NPF–66
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Callaway Plant*

Union Electric Co., Docket No. 50–483, License No. NPF–30
Mr. Adam C. Heflin, Senior Vice President and Chief Nuclear Officer, Union Electric Company, P.O. Box 620, Fulton, MO 65251

*Calvert Cliffs Nuclear Power Plant*

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317 and 50–318, License Nos. DPR–53 and DPR–69
Mr. George H. Gellrich, Vice President, Calvert Cliffs Nuclear Power Plant, LLC, Calvert Cliffs Nuclear Power Plant, 1650 Calvert Cliffs Parkway, Lusby, MD 20657–4702

*Catawba Nuclear Station*

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, License Nos. NPF–35 and NPF–52
Mr. James R. Morris, Site Vice President, Duke Energy Carolinas, LLC, Catawba Nuclear Station, 4800 Concord Road, York, SC 29745

*Clinton Power Station*

Exelon Generation Co., LLC, Docket No. 50–461, License No. NPF–62
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Columbia Generating Station*

Energy Northwest, Docket No. 50–397, License No. NPF–21
Mr. Mark E. Reddemann, Chief Executive Officer, Energy Northwest, MD 1023, P.O. Box 968, Richland, WA 99352

*Comanche Peak Nuclear Power Plant*

Luminant Generation Co., LLC, Docket Nos. 50–445 and 50–446, License Nos. NPF–87 and NPF–89
Mr. Rafael Flores, Senior Vice President and Chief Nuclear Officer, Luminant Generation Company, LLC, Attn: Regulatory Affairs, P.O. Box 1002, Glen Rose, TX 76043

*Cooper Nuclear Station*

Nebraska Public Power District, Docket No. 50–298, License No. DPR–46
Mr. Brian J. O'Grady, Vice President—Nuclear and Chief Nuclear Officer, Nebraska Public Power District, 72676 648A Avenue, P.O. Box 98, Brownville, NE 68321

*Crystal River Nuclear Generating Plant*

Florida Power Corp., Docket No. 50–302, License No. DPR–72
Mr. Jon A. Franke, Vice President, Attn: Supervisor, Licensing & Regulatory Affairs, Progress Energy, Inc., Crystal River Nuclear Plant (NA2C), 15760 West Power Line Street, Crystal River, FL 34428–6708

*Davis-Besse Nuclear Power Station*

First Energy Nuclear Operating Co., Docket No. 50–346, License No. NPF–3
Mr. Barry S. Allen, Site Vice President, FirstEnergy Nuclear Operating Company, c/o Davis-Besse NPS, 5501 N. State Route 2, Oak Harbor, OH 43449–9760

*Diablo Canyon Power Plant*

Pacific Gas & Electric Co., Docket Nos. 50–275 and 50–323, License Nos. DPR–80 and DPR–82
Mr. John T. Conway, Senior Vice President—Energy Supply and Chief Nuclear Officer, Pacific Gas and Electric Company, Diablo Canyon Power Plant, 77 Beale Street, Mail Code B32, San Francisco, CA 94105

*Donald C. Cook Nuclear Plant*

Indiana Michigan Power Co., Docket Nos. 50–315 and 50–316, License Nos. DPR–58 and DPR–74
Mr. Lawrence J. Weber, Senior Vice President and Chief Nuclear Officer, Indiana Michigan Power Company, Nuclear Generation Group, One Cook Place, Bridgman, MI 49106

*Dresden Nuclear Power Station*

Exelon Generation Co., LLC, Docket Nos. 50–237 and 50–249, License Nos. DPR–19 and DPR–25
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Duane Arnold Energy Center*

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, License No. DPR–49
Mr. Peter Wells, Site Vice President, NextEra Energy, Duane Arnold Energy Center, 3277 DAEC Road, Palo, IA 52324–9785

*Edwin I. Hatch Nuclear Plant*

Southern Nuclear Operating Co., Docket Nos. 50–321 and 50–366, License Nos. DPR–57 and NPF–5
Mr. Dennis R. Madison, Vice President, Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, 11028 Hatch Parkway North, Baxley, GA 31513

*Fermi*

Detroit Edison Co., Docket No. 50–341, License No. NPF–43
Mr. Jack M. Davis, Senior Vice President and Chief Nuclear Officer, Detroit Edison Company, Fermi 2—210 NOC, 6400 North Dixie Highway, Newport, MI 48166

*Fort Calhoun Station*

Omaha Public Power District, Docket No. 50–285, License No. DPR–40
Mr. David J. Bannister, Vice President and Chief Nuclear Officer, Omaha Public Power District, 444 South 16th St. Mall, Omaha, NE 68102–2247

*Grand Gulf Nuclear Station*

Entergy Operations, Inc., Docket No. 50–416, License No. NPF–29
Mr. Michael Perito, Vice President, Operations, Entergy Operations, Inc., Grand Gulf Nuclear Station, Unit 1, 7003 Bald Hill Road, Port Gibson, MS 39150

*H. B. Robinson Steam Electric Plant*

Carolina Power & Light Co., Docket No. 50–261, License No. DPR–23
Mr. Robert J. Duncan II, Vice President, Carolina Power & Light Company, 3581 West Entrance Road, Hartsville, SC 29550

*Hope Creek Generating Station*

PSEG Nuclear, LLC, Docket No. 50–354, License No. NPF–57

Mr. Thomas Joyce, President and Chief Nuclear Officer, PSEG Nuclear LLC–N09, P. O. Box 236, Hancocks Bridge, NJ 08038

*Indian Point Energy Center*

Entergy Nuclear Operations, Inc., Docket Nos. 50–247 and 50–286, License Nos. DPR–26 and DPR–64

Mr. John Ventosa, Vice President, Operations, Entergy Nuclear Operations, Inc., Indian Point Energy Center, 450 Broadway, GSB, P.O. Box 249, Buchanan, NY 10511–0249

*James A. FitzPatrick Nuclear Power Plant*

Entergy Nuclear Operations, Inc., Docket No. 50–333, License No. DPR–59

Mike Colomb, Vice President, Operations, Entergy Nuclear Operations, Inc., James A. FitzPatrick Nuclear Power Plant, P.O. Box 110, Lycoming, NY 13093

*Joseph M. Farley Nuclear Plant*

Southern Nuclear Operating Co., Docket Nos. 50–348 and 50–364, License Nos. NPF–2 and NPF–8

Mr. Tom Lynch, Vice President—Farley, Southern Nuclear Operating Company, Inc., Joseph M. Farley Nuclear Plant, 7388 North State Highway 95, Columbia, AL 36319

*Kewaunee Power Station*

Dominion Energy Kewaunee, Inc., Docket No. 50–305, License No. DPR–43

Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Energy Kewaunee, Inc., Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*LaSalle County Station*

Exelon Generation Co., LLC, Docket Nos. 50–373 and 50–374, License Nos. NPF–11 and NPF–18

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Limerick Generating Station*

Exelon Generation Co., LLC, Docket Nos. 50–352 and 50–353, License Nos. NPF–39 and NPF–85

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Millstone Nuclear Power Station*

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 and 50–423, License Nos. DPR–65 and NPF–49

Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Nuclear Connecticut, Inc., Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*Monticello Nuclear Generating Plant*

Northern States Power Company, Docket No. 50–263, License No. DPR–22

Mr. Timothy J. O'Connor, Site Vice President, Northern States Power Company—Minnesota, Monticello Nuclear Generating Plant, 2807 West County Road 75, Monticello, MN 55362–9637

*Nine Mile Point Nuclear Station*

Nine Mile Point Nuclear Station, LLC, Docket Nos. 50–220 and 50–410, License Nos. DPR–63 and NPF–69

Mr. Ken Langdon, Vice President Nine Mile Point, Nine Mile Point Nuclear Station, LLC, P. O. Box 63, Lycoming, NY 13093

*North Anna Power Station*

Virginia Electric & Power Co., Docket Nos. 50–338 and 50–339, License Nos. NPF–4 and NPF–7

Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Nuclear, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*Oconee Nuclear Station*

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270 and 50–287, License Nos. DPR–38, DPR–47 and DPR–55

Mr. Preston Gillespie, Site Vice President, Oconee Nuclear Station, Duke Energy Carolinas, LLC, 7800 Rochester Highway, Seneca, SC 29672

*Oyster Creek Nuclear Generating Station*

Exelon Generation Co., LLC, Docket No. 50–219, License No. DPR–16

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Palisades Nuclear Plant*

Entergy Nuclear Operations, Inc., Docket No. 50–255, License No. DPR–20

Mr. Anthony J. Vitale, Site Vice President—Palisades, Entergy Nuclear Operations, Inc., Palisades Nuclear Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043

*Palo Verde Nuclear Generating Station*

Arizona Public Service Company, Docket Nos. STN 50–528, STN 50–529 and STN 50–530, License Nos. NPF–41, NPF–51 and NPF–74

Mr. Randall K. Edington, Executive Vice President Nuclear and Chief Nuclear Officer, Arizona Public Service Co., P. O. Box 52034, MS 7602, Phoenix, AZ 85072–2034

*Peach Bottom Atomic Power Station*

Exelon Generation Co., LLC, Docket Nos. 50–277 and 50–278, License Nos. DPR–44 and DPR–56

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Perry Nuclear Power Plant*

First Energy Nuclear Operating Co., Docket No. 50–440, License No. NPF–58

Mr. Vito A. Kaminskas, Site Vice President—Nuclear—Perry, FirstEnergy Nuclear Operating Company, Perry Nuclear Power Plant, 10 Center Road, A290, Perry, OH 44081

*Pilgrim Nuclear Power Station Unit No. 1*

Entergy Nuclear Operations, Inc., Docket No. 50–293, License No. DPR–35

Mr. Robert Smith, Vice President and Site Vice President, Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station, 600 Rocky Hill Road, Plymouth, MA 02360–5508

*Point Beach Nuclear Plant*

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, License Nos. DPR–24 and DPR–27

Mr. Larry Meyer, Site Vice President, NextEra Energy Point Beach, LLC, Point Beach Nuclear Plant, Units 1 & 2, 6610 Nuclear Road, Two Rivers, WI 54241–9516

*Prairie Island Nuclear Generating Plant*

Northern States Power Co. Minnesota, Docket Nos. 50–282 and 50–306, License Nos. DPR–42 and DPR–60

Mr. Mark A. Schimmel, Site Vice President, Northern States Power Company—Minnesota, Prairie Island Nuclear Generating Plant, 1717 Wakonade Drive East, Welch, MN 55089–9642

*Quad Cities Nuclear Power Station*

Exelon Generation Co., LLC, Docket Nos. 50–254 and 50–265, License Nos. DPR–29 and DPR–30

Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*R.E. Ginna Nuclear Power Plant*

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, License No. DPR–18
Mr. Joseph E. Pacher, Vice President, R.E. Ginna Nuclear Power Plant, LLC, R.E. Ginna Nuclear Power Plant, 1503 Lake Road, Ontario, NY 14519

*River Bend Station*

Entergy Operations, Inc., Docket No. 50–458, License No. NPF–47
Mr. Eric W. Olson, Vice President, Operations, Entergy Operations, Inc., River Bend Station, 5485 U.S. Highway 61N, St. Francisville, LA 70775

*Salem Nuclear Generating Station*

PSEG Nuclear, LLC, Docket Nos. 50–272 and 50–311, License Nos. DPR–70 and DPR–75
Mr. Thomas Joyce, President and Chief Nuclear Officer, PSEG Nuclear LLC—N09, P.O. Box 236, Hancocks Bridge, NJ 08038

*San Onofre Nuclear Generating Station*

Southern California Edison Co., Docket Nos. 50–361 and 50–362, License Nos. NPF–10 and NPF–15
Mr. Peter T. Dietrich, Senior Vice President and Chief Nuclear Officer, Southern California Edison Company, San Onofre Nuclear Generating Station, P.O. Box 128, San Clemente, CA 92674–0128

*Seabrook*

NextEra Energy Seabrook, LLC, Docket No. 50–443, License No. NPF–86
Mr. Paul Freeman, Site Vice President, NextEra Energy Seabrook, LLC, c/o Mr. Michael O'Keefe, NextEra Energy Seabrook, LLC, P.O. Box 300, Seabrook, NH 03874

*Sequoyah Nuclear Plant*

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, License Nos. DPR–77 and DPR–79
Mr. Preston D. Swafford, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, 3R Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Shearon Harris Nuclear Power Plant*

Carolina Power & Light Co., Docket No. 50–400, License No. NPF–63
Mr. Christopher L. Burton, Vice President, Progress Energy Carolinas, Inc., Shearon Harris Nuclear Power Plant, P.O. Box 165, Mail Zone 1, New Hill, NC 27562–0165

*South Texas Project*

STP Nuclear Operating Co., Docket Nos. 50–498 and 50–499, License Nos. NPF–76 and NPF–80
Mr. Edward D. Halpin, President, Chief Executive Officer and Chief Nuclear Officer, STP Nuclear Operating Company, South Texas Project, P.O. Box 289, Wadsworth, TX 77483

*St. Lucie Plant*

Florida Power & Light Co., Docket Nos. 50–335 and 50–389, License Nos. DPR–67 and NPF–16
Mr. Mano Nazar, Executive Vice President and Chief Nuclear Officer, NextEra Energy, 700 Universe Boulevard, P.O. Box 14000, Juno Beach, FL 33408–0420

*Surry Power Station*

Virginia Electric & Power Co., Docket Nos. 50–280 and 50–281, License Nos. DPR–32 and DPR–371
Mr. David A. Heacock, President and Chief Nuclear Officer, Dominion Nuclear, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711

*Susquehanna Steam Electric Station*

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, License Nos. NPF–14 and NPF–22
Mr. Timothy S. Rausch, Senior Vice President and Chief Nuclear Officer, PPL Susquehanna, LLC, 769 Salem Boulevard, NUCSB3, Berwick, PA 18603–0467

*Three Mile Island Nuclear Station, Unit 1*

(* via corrected letter dated 3/13/12—ML12073A366) Exelon Generation Co., LLC, Docket No. 50–289, License No. DPR–50
Mr. Michael J. Pacilio, President and Chief Nuclear Officer, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555

*Turkey Point*

Florida Power & Light Co., Docket Nos. 50–250 and 50–251, License Nos. DPR–31 and DPR–41
Mr. Mano Nazar, Executive Vice President and Chief Nuclear Officer, NextEra Energy, 700 Universe Boulevard, P.O. Box 14000, Juno Beach, FL 33408–0420

*Vermont Yankee Nuclear Power Station*

Entergy Nuclear Operations, Inc., Docket No. 50–271, License No. DPR–28
Mr. Christopher J. Wamser, Site Vice President, Entergy Nuclear Operations, Inc., Vermont Yankee Nuclear Power Station, 320 Governor Hunt Road, Vernon, VT 05354

*Virgil C. Summer Nuclear Station*

South Carolina Electric & Gas Co., Docket No. 50–395, License No. NPF–12
Mr. Thomas D. Gatlin, Vice President Nuclear Operations, South Carolina Electric & Gas Company, Virgil C. Summer Nuclear Station, Post Office Box 88, Mail Code 300, Jenkinsville, SC 29065

*Vogtle Electric Generating Plant*

Southern Nuclear Operating Co., Docket Nos. 50–424 and 50–425, License Nos. NPF–68 and NPF–81
Mr. Tom E. Tynan, Vice President, Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, 7821 River Road, Waynesboro, GA 30830

*Vogtle Electric Generating Plant, Units 3 & 4*

Southern Nuclear Operating Co., Docket Nos. 52–025 and 52–026, License Nos. NPF–91 and NPF–92
Mr. B. L. Ivey, Vice President, Regulatory Affairs, Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Bin B022, Birmingham, AL 35242

*Waterford Steam Electric Station*

Entergy Operations, Inc., Docket No. 50–382, License No. NPF–38
Ms. Donna Jacobs, Vice President, Operations, Entergy Operations, Inc., Waterford Steam Electric Station, Unit 3, 17265 River Road, Killona, LA 70057–0751

*Watts Bar Nuclear Plant, Unit 1*

Tennessee Valley Authority, Docket No. 50–390, License No. NPF–90
Mr. Preston D. Swafford, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, 3R Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*Watts Bar Nuclear Plant, Unit 2*

Tennessee Valley Authority, Docket No. 50–391, Construction Permit No. CPPR No. 092
Mr. Michael D. Skaggs, Senior Vice President, Nuclear Generation Development and Construction, Tennessee Valley Authority, 6A Lookout Place, 1101 Market Street, Chattanooga, TN 37402–2801

*William B. McGuire Nuclear Station*

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, License Nos. NPF–9 and NPF–17
Mr. Regis T. Repko, Vice President, Duke Energy Carolinas, LLC, McGuire Nuclear Site, 12700 Hagers Ferry Road, Huntersville, NC 28078

*Wolf Creek Generating Station*

Wolf Creek Nuclear Operating Corp., Docket No. 50–482, License No. NPF–42

Mr. Matthew W. Sunseri, President and Chief Executive Officer, Wolf Creek Nuclear Operating Corporation, P.O. Box 411, Burlington, KS 66839

**Requirements for Mitigation Strategies for Beyond-Design-Basis External Events at Operating Reactor Sites and Construction Permit Holders**

This Order requires a three-phase approach for mitigating beyond-design-basis external events. The initial phase requires the use of installed equipment and resources to maintain or restore core cooling, containment and spent fuel pool (SFP) cooling capabilities. The transition phase requires providing sufficient, portable, onsite equipment and consumables to maintain or restore these functions until they can be accomplished with resources brought from off site. The final phase requires obtaining sufficient offsite resources to sustain those functions indefinitely.

(1) Licensees or construction permit (CP) holders shall develop, implement, and maintain guidance and strategies to maintain or restore core cooling, containment and SFP cooling capabilities following a beyond-design-basis external event.

(2) These strategies must be capable of mitigating a simultaneous loss of all alternating current (ac) power and loss of normal access to the ultimate heat sink and have adequate capacity to address challenges to core cooling, containment, and SFP cooling capabilities at all units on a site subject to this Order.

(3) Licensees or CP holders must provide reasonable protection for the associated equipment from external events. Such protection must demonstrate that there is adequate capacity to address challenges to core cooling, containment, and SFP cooling capabilities at all units on a site subject to this Order.

(4) Licensees or CP holders must be capable of implementing the strategies in all modes.

(5) Full compliance shall include procedures, guidance, training, and acquisition, staging, or installing of equipment needed for the strategies.

**Requirements for Mitigation Strategies for Beyond-Design-Basis External Events at Col Holder Reactor Sites (VOGTLE Units 3 and 4)**

Attachment 2 to this order for Part 50 licensees requires a phased approach for mitigating beyond-design-basis external events. The initial phase requires the use of installed equipment and resources to maintain or restore core cooling, containment and spent fuel pool (SFP) cooling capabilities. The transition phase requires providing sufficient, portable, onsite equipment and consumables to maintain or restore these functions until they can be accomplished with resources brought from off site. The final phase requires obtaining sufficient offsite resources to sustain those functions indefinitely.

The design bases of Vogtle Units 3 and 4 includes passive design features that provide core, containment and SFP cooling capability for 72 hours, without reliance on alternating current (ac) power. These features do not rely on access to any external water sources since the containment vessel and the passive containment cooling system serve as the safety-related ultimate heat sink. The NRC staff reviewed these design features prior to issuance of the combined licenses for these facilities and certification of the AP1000 design referenced therein. The AP1000 design also includes equipment to maintain required safety functions in the long term (beyond 72 hours to 7 days) including capability to replenish water supplies. Connections are provided for generators and pumping equipment that can be brought to the site to back up the installed equipment. The staff concluded in its final safety evaluation report for the AP1000 design that the installed equipment (and alternatively, the use of transportable equipment) is capable of supporting extended operation of the passive safety systems to maintain required safety functions in the long term. As such, this Order requires Vogtle Units 3 and 4 to address the following requirements relative to the final phase.

(1) Licensees shall develop, implement, and maintain guidance and strategies to maintain or restore core cooling, containment and SFP cooling capabilities following a beyond-design-basis external event.

(2) These strategies must be capable of mitigating a simultaneous loss of all ac power and loss of normal access to the normal heat sink and have adequate capacity to address challenges to core cooling, containment, and SFP cooling capabilities at all units on a site subject to this Order.

(3) Licensees must provide reasonable protection for the associated equipment from external events. Such protection must demonstrate that there is adequate capacity to address challenges to core cooling, containment, and SFP cooling capabilities at all units on a site subject to this Order.

(4) Licensees must be capable of implementing the strategies in all modes.

(5) Full compliance shall include procedures, guidance, training, and acquisition, staging, or installing of equipment needed for the strategies.

[FR Doc. 2012–6547 Filed 3–16–12; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. (as shown in Attachment 1); License Nos. (as shown in Attachment 1); EA–12–050; [NRC–2012–0069]**

## In the Matter of All Operating Boiling Water Reactor Licensees With Mark I and Mark II Containments; Order Modifying Licenses With Regard To Reliable Hardened Containment Vents (Effective Immediately)

**I**

The Licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing operation of nuclear power plants in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations (10 CFR) part 50, ''Domestic Licensing of Production and Utilization Facilities.'' Specifically, these Licensees operate boiling-water reactors (BWRs) with Mark I and Mark II containment designs.

**II**

On March 11, 2011, a magnitude 9.0 earthquake struck off the coast of the Japanese island of Honshu. The earthquake resulted in a large tsunami, estimated to have exceeded 14 meters (45 feet) in height, which inundated the Fukushima Dai-ichi nuclear power plant site. The earthquake and tsunami produced widespread devastation across northeastern Japan, and significantly affected the infrastructure and industry in the northeastern coastal areas of Japan.

When the earthquake occurred, Fukushima Dai-ichi Units 1, 2, and 3 were in operation and Units 4, 5, and 6 were shut down for routine refueling and maintenance activities. The Unit 4 reactor fuel was offloaded to the Unit 4 spent fuel pool. Following the earthquake, the three operating units automatically shut down and offsite power was lost to the entire facility. The emergency diesel generators (EDGs) started at all six units providing alternating current (ac) electrical power to critical systems at each unit. The

facility response to the earthquake appears to have been normal.

Approximately 40 minutes following the earthquake and shutdown of the operating units, the first large tsunami wave inundated the site, followed by additional waves. The tsunami caused extensive damage to site facilities and resulted in a complete loss of all ac electrical power at Units 1 through 5, a condition known as station blackout (SBO). In addition, all direct current electrical power was lost early in the event on Units 1 and 2, and after some period of time at the other units. Unit 6 retained the function of one air-cooled EDG. Despite their actions, the operators lost the ability to cool the fuel in the Unit 1 reactor after several hours, in the Unit 2 reactor after about 70 hours, and in the Unit 3 reactor after about 36 hours, resulting in damage to the nuclear fuel shortly after the loss of cooling capabilities.

Operators first considered using the facility's hardened vent to control pressure in the containment within an hour following the loss of all ac power at Unit 1. The Emergency Response Center began reviewing accident management procedures and checking containment venting procedures to determine how to open the containment vent valves without power.[1] Ultimately, without adequate core and containment cooling, primary containment (drywell) pressure and temperature in Units 1, 2, and 3 substantially exceeded the design values for the containments. When the operators attempted to vent the containments, they were significantly challenged in opening the hardened wetwell (suppression chamber) vents because of complications from the prolonged SBO, and high radiation fields that impeded access.

At Fukushima Dai-ichi Units 1, 2, 3, and 4, venting the wetwell involved opening motor- and air-operated valves. Similar features are used in many hardened vent systems that were installed in U.S. BWR Mark I containment plants following issuance of Generic Letter (GL) 89–16, ''Installation of a Hardened Wetwell Vent.'' In the prolonged SBO situation that occurred at Fukushima, operator actions were not possible from the control room because of the loss of power, and the loss of pneumatic supply pressure to the air-operated valves. The resultant delay in venting the containment precluded early injection of coolant into the reactor vessel. The lack of coolant, in turn, resulted in extensive core damage, high radiation levels, hydrogen production and containment failure. The leakage of hydrogen gas into the reactor buildings resulted in explosions in the secondary containment buildings of Units 1, 3, and 4, and the ensuing damage to the facility contributed to the uncontrolled release of radioactive material to the environment.

Fukushima Dai-ichi Units 1, 2, 3, and 4 use the Mark I containment design; however, because Mark II containment designs are only slightly larger in volume than Mark I containment designs and use wetwell pressure suppression, it can reasonably be concluded that a Mark II under similar circumstances would have suffered similar consequences.

Following the events at the Fukushima Dai-ichi nuclear power plant, the NRC established a senior-level agency task force referred to as the Near-Term Task Force (NTTF). The NTTF was tasked with conducting a systematic and methodical review of the NRC regulations and processes and determining if the agency should make additional improvements to these programs in light of the events at Fukushima Dai-ichi. As a result of this review, the NTTF developed a comprehensive set of recommendations, documented in SECY–11–0093, ''Near-Term Report and Recommendations for Agency Actions Following the Events in Japan,'' dated July 12, 2011. These recommendations were enhanced by the NRC staff following interactions with stakeholders. Documentation of the staff's efforts is contained in SECY–11–0124, ''Recommended Actions To Be Taken Without Delay From the Near-Term Task Force Report,'' dated September 9, 2011, and SECY–11–0137, ''Prioritization of Recommended Actions To Be Taken in Response to Fukushima Lessons Learned,'' dated October 3, 2011.

As directed by the Staff Requirements Memorandum (SRM) for SECY–11–0093, the NRC staff reviewed the NTTF recommendations within the context of the NRC's existing regulatory framework and considered the various regulatory vehicles available to the NRC to implement the recommendations. SECY–11–0124 and SECY–11–0137 established the staff's prioritization of the recommendations based upon the potential safety enhancements.

Current regulatory requirements and existing plant capabilities allow the NRC to conclude that a sequence of events such as the Fukushima Dai-ichi accident is unlikely to occur in the U.S. Therefore, continued operation and continued licensing activities do not pose an imminent threat to public health and safety. However, the importance of reliable operation of hardened vents during emergency conditions was already well established and this understanding has been reinforced by the clear lessons of Fukushima. While not required, hardened vents have been in place in U.S. plants with BWR Mark I containments for many years but a wide variance exists with regard to the reliability of the vents. Additionally, hardened vents are not required on plants with BWR Mark II containments although as discussed above, Mark II containments are only slightly larger than Mark I. Reliable hardened venting systems in BWR facilities with Mark I and Mark II containments are needed to ensure that adequate protection of public health and safety is maintained.

In SRM–SECY–11–0137, the Commission directed the NRC staff to take certain actions and provided further guidance including directing the staff to consider filtered vents. The staff has determined that there are policy issues that need to be resolved before any regulatory action can be taken to require Licensees to install filtered vents. These policy issues include consideration of severe accident conditions in the design and operation of the vent, addition of filters to hardened reliable vent systems, and consideration of vents in areas other than primary containment. However, the NRC has also determined that Licensees should promptly begin the implementation of short-term actions relating to reliable hardened vents and to focus these actions on improvements that will assist in the prevention of core damage. As such, this Order requires Licensees to take the necessary actions to install reliable hardened venting systems in BWR facilities with Mark I and Mark II containments to assist strategies relating to the prevention of core damage. With respect to the policy issues discussed above, the NRC staff plans to submit a Policy Paper to the Commission in July 2012.

Additional details on an acceptable approach for complying with this Order will be contained in final Interim Staff Guidance (ISG) scheduled to be issued by the NRC in August 2012. This guidance will also include a template to be used for the plan that will be submitted in accordance with Section IV, C.1 below.

## III

Reasonable assurance of adequate protection of the public health and safety and assurance of the common

[1] See Institute of Nuclear Power Operations (INPO) report ''*INPO 11–005, Special Report on the Nuclear Accident at the Fukushima Daiichi Nuclear Power Station, Revision 0,*'' issued November 2011, p. 72.

defense and security are the fundamental NRC regulatory objectives. Compliance with NRC requirements plays a critical role in giving the NRC confidence that Licensees are maintaining an adequate level of public health and safety and common defense and security. While compliance with NRC requirements presumptively assures adequate protection, new information may reveal that additional requirements are warranted. In such situations, the Commission may act in accordance with its statutory authority under Section 161 of the Atomic Energy Act of 1954, as amended, to require Licensees to take action in order to protect health and safety and common defense and security.

To protect public health and safety from the inadvertent release of radioactive materials, the NRC's defense-in-depth strategy includes multiple layers of protection: (1) Prevention of accidents by virtue of the design, construction and operation of the plant, (2) mitigation features to prevent radioactive releases should an accident occur, and (3) emergency preparedness programs that include measures such as sheltering and evacuation. The defense-in-depth strategy also provides for multiple physical barriers to contain the radioactive materials in the event of an accident. The barriers are the fuel cladding, the reactor coolant pressure boundary, and the containment. These defense-in-depth features are embodied in the existing regulatory requirements and thereby provide adequate protection of public health and safety.

The events at Fukushima Dai-ichi highlight the possibility that extreme natural phenomena could challenge the prevention, mitigation, and emergency preparedness defense-in-depth layers. At Fukushima, limitations in time and unpredictable conditions associated with the accident significantly challenged attempts by the responders to preclude core damage and containment failure. In particular, the operators were unable to successfully operate the containment venting system. The inability to reduce containment pressure inhibited efforts to cool the reactor core. If additional backup or alternate sources of power had been available to operate the containment venting system remotely, or if certain valves had been more accessible for manual operation, the operators at Fukushima may have been able to depressurize the containment earlier. This, in turn, could have allowed operators to implement strategies using low-pressure water sources that may have limited or prevented damage to the reactor core. Thus, the events at Fukushima demonstrate that reliable hardened vents at BWR facilities with Mark I and Mark II containment designs are important to maintain core and containment cooling.

The Commission has determined that ensuring adequate protection of public health and safety requires that all operating BWR facilities with Mark I and Mark II containments have a reliable hardened venting capability for events that can lead to core damage. These new requirements provide greater mitigation capability consistent with the overall defense-in-depth philosophy, and therefore greater assurance that the challenges posed by severe external events to power reactors do not pose an undue risk to public health and safety. To provide reasonable assurance of adequate protection of public health and safety, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order.

Accordingly, the NRC has concluded that these measures are necessary to ensure adequate protection of public health and safety under the provisions of the backfit rule, 10 CFR 50.109(a)(4)(ii), and is requiring Licensee actions. In addition, pursuant to 10 CFR 2.202, the NRC finds that the public health, safety and interest require that this Order be made immediately effective.

**IV**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, ''Orders,'' and 10 CFR part 50, *it is hereby ordered, effective immediately, that all licenses identified in attachment 1 to this order are modified as follows:*

A. All Licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the license. These Licensees shall promptly start implementation of the requirements in Attachment 2 to the Order and shall complete full implementation no later than two (2) refueling cycles following the submittal of the overall integrated plan, as required in Condition C.1. (scheduled to be issued in August 2012), or December 31, 2016, whichever comes first.

B. 1. All Licensees shall, within twenty (20) days of the date of this Order, notify the Commission (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

2. Any Licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely affect the safe and secure operation of the facility must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. 1. All Licensees shall, by February 28, 2013, submit to the Commission for review an overall integrated plan including a description of how compliance with the requirements described in Attachment 2 will be achieved.

2. All Licensees shall provide an initial status report sixty (60) days following issuance of the final ISG, and at six (6)-month intervals following submittal of the overall integrated plan, as required in Condition C.1, which delineates progress made in implementing the requirements of this Order.

3. All Licensees shall report to the Commission when full compliance with the requirements described in Attachment 2 is achieved.

Licensee responses to Conditions B.1, B.2, C.1, C.2, and C.3 above shall be submitted in accordance with 10 CFR 50.4, ''Written Communications.''

The Director, Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

**V**

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order,

within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order.

If a hearing is requested by a Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the licensee or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or

home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. *An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

For The Nuclear Regulatory Commission.

Dated this 12th day of March 2012.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

**Operating Boiling Water Reactor Licenses With Mark I and Mark II Containments**

| | |
|---|---|
| *Browns Ferry Nuclear Plant* | BWR–Mark I. |
| Tennessee Valley Authority. | |
| Docket Nos. 50–259, 50–260 and 50–296. | |
| License Nos. DPR–33, DPR–52 and DPR–68. | |
| Mr. Preston D. Swafford. | |
| Chief Nuclear Officer and Executive Vice President. | |
| Tennessee Valley Authority. | |
| 3R Lookout Place. | |
| 1101 Market Street. | |
| Chattanooga, TN 37402–2801. | |
| *Brunswick Steam Electric Plant* | BWR–Mark I. |
| Carolina Power & Light Co.. | |
| Docket Nos. 50–325 and 50–324. | |
| License Nos. DPR–71 and DPR–62. | |
| Mr. Michael J. Annacone. | |
| Vice President. | |
| Carolina Power & Light Company. | |
| Brunswick Steam Electric Plant. | |
| P.O. Box 10429. | |
| Southport, NC 28461. | |
| *Columbia Generating Station* | BWR–Mark II. |
| Energy Northwest. | |
| Docket No. 50–397. | |
| License No. NPF–21. | |
| Mr. Mark E. Reddemann. | |
| Chief Executive Officer. | |
| Energy Northwest. | |
| MD 1023. | |
| P.O. Box 968. | |
| Richland, WA 99352. | |
| *Cooper Nuclear Station* | BWR–Mark I. |
| Nebraska Public Power District. | |
| Docket No. 50–298. | |
| License No. DPR–46. | |
| Mr. Brian J. O'Grady. | |
| Vice President—Nuclear and Chief Nuclear Officer. | |
| Nebraska Public Power District. | |
| 72676 648A Avenue. | |
| P.O. Box 98. | |
| Brownville, NE 68321. | |
| *Dresden Nuclear Power Station* | BWR–Mark I. |
| Exelon Generation Co., LLC. | |
| Docket Nos. 50–237 and 50–249. | |
| License Nos. DPR–19 and DPR–25. | |
| Mr. Michael J. Pacilio. | |
| President and Chief Nuclear Officer. | |
| Exelon Nuclear. | |
| 4300 Winfield Road. | |
| Warrenville, IL 60555. | |
| *Duane Arnold Energy Center* | BWR–Mark I. |
| NextEra Energy Duane Arnold, LLC. | |
| Docket No. 50–331. | |
| License No. DPR–49. | |
| Mr. Peter Wells. | |
| Site Vice President. | |
| NextEra Energy. | |
| Duane Arnold Energy Center. | |
| 3277 DAEC Road. | |
| Palo, IA 52324–9785. | |
| *Edwin I. Hatch Nuclear Plant* | BWR–Mark I. |

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|---|---|
| Southern Nuclear Operating Co..<br>Docket Nos. 50–321 and 50–366.<br>License Nos. DPR–57 and NPF–5.<br>Mr. Dennis R. Madison.<br>Vice President.<br>Southern Nuclear Operating Company, Inc..<br>Edwin I. Hatch Nuclear Plant.<br>11028 Hatch Parkway North.<br>Baxley, GA 31513. | |
| *Fermi* | BWR–Mark I. |
| Detroit Edison Co..<br>Docket No. 50–341.<br>License No. NPF–43.<br>Mr. Jack M. Davis.<br>Senior Vice President and Chief Nuclear Officer.<br>Detroit Edison Company.<br>Fermi 2—210 NOC.<br>6400 North Dixie Highway.<br>Newport, MI 48166. | |
| *Hope Creek Generating Station* | BWR–Mark I. |
| PSEG Nuclear, LLC.<br>Docket No. 50–354.<br>License No. NPF–57.<br>Mr. Thomas Joyce.<br>President and Chief Nuclear Officer.<br>PSEG Nuclear LLC—N09.<br>P.O. Box 236.<br>Hancocks Bridge, NJ 08038. | |
| *James A. FitzPatrick Nuclear Power Plant* | BWR–Mark I. |
| Entergy Nuclear Operations, Inc..<br>Docket No. 50–333.<br>License No. DPR–59.<br>Mike Colomb.<br>Vice President, Operations.<br>Entergy Nuclear Operations, Inc..<br>James A. FitzPatrick Nuclear Power Plant.<br>P.O. Box 110.<br>Lycoming, NY 13093. | |
| *LaSalle County Station* | BWR–Mark II. |
| Exelon Generation Co., LLC.<br>Docket Nos. 50–373 and 50–374.<br>License Nos. NPF–11 and NPF–18.<br>Mr. Michael J. Pacilio.<br>President and Chief Nuclear Officer.<br>Exelon Nuclear.<br>4300 Winfield Road.<br>Warrenville, IL 60555. | |
| *Limerick Generating Station* | BWR–Mark II. |
| Exelon Generation Co., LLC.<br>Docket Nos. 50–352 and 50–353.<br>License Nos. NPF–39 and NPF–85.<br>Mr. Michael J. Pacilio.<br>President and Chief Nuclear Officer.<br>Exelon Nuclear.<br>4300 Winfield Road.<br>Warrenville, IL 60555. | |
| *Monticello Nuclear Generating Plant* | BWR–Mark I. |
| Northern States Power Company.<br>Docket No. 50–263.<br>License No. DPR–22.<br>Mr. Timothy J. O'Connor.<br>Site Vice President.<br>Northern States Power Company—Minnesota.<br>Monticello Nuclear Generating Plant.<br>2807 West County Road 75.<br>Monticello, MN 55362–9637. | |
| *Nine Mile Point Nuclear Station* | BWR–Mark I & II. |
| Nine Mile Point Nuclear Station, LLC.<br>Docket Nos. 50–220 and 50–410.<br>License Nos. DPR–63 and NPF–69.<br>Mr. Ken Langdon.<br>Vice President Nine Mile Point.<br>Nine Mile Point Nuclear Station, LLC.<br>P.O. Box 63.<br>Lycoming, NY 13093. | |

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| *Oyster Creek Nuclear Generating Station*<br>Exelon Generation Co., LLC.<br>Docket No. 50–219.<br>License No. DPR–16.<br>Mr. Michael J. Pacilio.<br>President and Chief Nuclear Officer.<br>Exelon Nuclear.<br>4300 Winfield Road.<br>Warrenville, IL 60555. | BWR–Mark I. |
| *Peach Bottom Atomic Power Station*<br>Exelon Generation Co., LLC.<br>Docket Nos. 50–277 and 50–278.<br>License Nos. DPR–44 and DPR–56.<br>Mr. Michael J. Pacilio.<br>President and Chief Nuclear Officer.<br>Exelon Nuclear.<br>4300 Winfield Road.<br>Warrenville, IL 60555. | BWR–Mark I. |
| *Pilgrim Nuclear Power Station Unit No. 1*<br>Entergy Nuclear Operations, Inc..<br>Docket No. 50–293.<br>License No. DPR–35.<br>Mr. Robert Smith.<br>Vice President and Site Vice President.<br>Entergy Nuclear Operations, Inc..<br>Pilgrim Nuclear Power Station.<br>600 Rocky Hill Road.<br>Plymouth, MA 02360–5508. | BWR–Mark I. |
| *Quad Cities Nuclear Power Station*<br>Exelon Generation Co., LLC.<br>Docket Nos. 50–254 and 50–265.<br>License Nos. DPR–29 and DPR–30.<br>Mr. Michael J. Pacilio.<br>President and Chief Nuclear Officer.<br>Exelon Nuclear.<br>4300 Winfield Road.<br>Warrenville, IL 60555. | BWR–Mark I. |
| *Susquehanna Steam Electric Station*<br>PPL Susquehanna, LLC.<br>Docket Nos. 50–387 and 50–388.<br>License Nos. NPF–14 and NPF–22.<br>Mr. Timothy S. Rausch.<br>Senior Vice President and Chief Nuclear Officer.<br>PPL Susquehanna, LLC.<br>769 Salem Boulevard.<br>NUCSB3.<br>Berwick, PA 18603–0467. | BWR–Mark II. |
| *Vermont Yankee Nuclear Power Station*<br>Entergy Nuclear Operations, Inc..<br>Docket No. 50–271.<br>License No. DPR–28.<br>Mr. Christopher J. Wamser.<br>Site Vice President.<br>Entergy Nuclear Operations, Inc..<br>Vermont Yankee Nuclear Power Station.<br>320 Governor Hunt Road.<br>Vernon, VT 05354. | BWR–Mark I. |

**Requirements for Reliable Hardened Vent Systems at Boiling-Water Reactor Facilities With Mark I And Mark II Containments**

1. *Hardened Containment Venting System (HCVS) Functional Requirements*

Boiling-Water Reactor (BWR) Mark I and Mark II containments shall have a reliable hardened vent to remove decay heat and maintain control of containment pressure within acceptable limits following events that result in the loss of active containment heat removal capability or prolonged Station Blackout (SBO). The hardened vent system shall be accessible and operable under a range of plant conditions, including a prolonged SBO and inadequate containment cooling.

1.1 The design of the HCVS shall consider the following performance objectives:

1.1.1 The HCVS shall be designed to minimize the reliance on operator actions.

1.1.2 The HCVS shall be designed to minimize plant operators' exposure to occupational hazards, such as extreme heat stress, while operating the HCVS system.

1.1.3 The HCVS shall also be designed to minimize radiological consequences that would impede personnel actions needed for event response.

1.2 The HCVS shall include the following design features:

1.2.1 The HCVS shall have the capacity to vent the steam/energy equivalent of 1 percent of licensed/rated thermal power (unless a lower

value is justified by analyses), and be able to maintain containment pressure below the primary containment design pressure.

1.2.2 The HCVS shall be accessible to plant operators and be capable of remote operation and control, or manual operation, during sustained operations.

1.2.3 The HCVS shall include a means to prevent inadvertent actuation.

1.2.4 The HCVS shall include a means to monitor the status of the vent system (e.g., valve position indication) from the control room or other location(s). The monitoring system shall be designed for sustained operation during a prolonged SBO.

1.2.5 The HCVS shall include a means to monitor the effluent discharge for radioactivity that may be released from operation of the HCVS. The monitoring system shall provide indication in the control room or other location(s), and shall be designed for sustained operation during a prolonged SBO.

1.2.6 The HCVS shall include design features to minimize unintended cross flow of vented fluids within a unit and between units on the site.

1.2.7 The HCVS shall include features and provision for the operation, testing, inspection and maintenance adequate to ensure that reliable function and capability are maintained.

1.2.8 The HCVS shall be designed for pressures that are consistent with maximum containment design pressures as well as dynamic loading resulting from system actuation.

1.2.9 The HCVS shall discharge the effluent to a release point above main plant structures.

2. *Hardened Containment Venting System Quality Standards*

The following quality standards are necessary to fulfill the requirements for a reliable HCVS:

2.1 The HCVS vent path up to and including the second containment isolation barrier shall be designed consistent with the design basis of the plant. These items include piping, piping supports, containment isolation valves, containment isolation valve actuators and containment isolation valve position indication components.

2.2 All other HCVS components shall be designed for reliable and rugged performance that is capable of ensuring HCVS functionality following a seismic event. These items include electrical power supply, valve actuator pneumatic supply and instrumentation (local and remote) components.

3. *Hardened Containment Venting System Programmatic Requirements*

3.1 The Licensee shall develop, implement, and maintain procedures necessary for the safe operation of the HCVS. Procedures shall be established for system operations when normal and backup power is available, and during SBO conditions.

3.2 The Licensee shall train appropriate personnel in the use of the HCVS. The training curricula shall include system operations when normal and backup power is available, and during SBO conditions.

[FR Doc. 2012–6545 Filed 3–16–12; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66581; File No. SR–ICEEU–2012–04]**

## Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change To Provide for a T+1 Settlement of the Initial Payment Related to the CDS Contracts Cleared by ICE Clear Europe Limited

March 13, 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 6, 2012, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by ICE Clear Europe. 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

ICE Clear Europe proposes rule amendments that are intended to modify the terms of each of the various CDS Contracts cleared by ICE Clear Europe (iTraxx Contracts, Standard European Corporate and Sovereign Contracts) to make the Initial Payment[3] date the first business day immediately following the trade date, provided that with respect to CDS Contracts that are accepted for clearing after the trade date, the Initial Payment date will be the date that is the first business day following the date when the CDS Contract is accepted for clearing.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

As noted above, the proposed rule changes amend the timing of Initial Payments on a cleared CDS Contract. The Initial Payment under a CDS Contract is established at the time the contract is executed and may be payable from either the protection buyer to the protection seller or vice versa. Under the current ICE Clear Europe Rules (by way of the incorporated ISDA Credit Derivatives Definitions), and consistent with practice in the market for uncleared credit default swaps, the Initial Payment is required to be made on the third business day following the trade date (the execution date). ICE Clear Europe proposes to amend the definition of Initial Payment in its Clearing Rules to provide instead that the Initial Payment is to be made on the first business day following the trade date (or, if the transaction is accepted for clearing after the trade date, the initial payment is to be made on the first business day following the date of acceptance for clearing). ICE Clear Europe believes that this change from T+3 settlement to T+1 settlement will reduce settlement risk for the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Initial Payment means, in relation to a CDS Contract, the payment, if any, specified as the ''Initial Payment Amount'' (or, in relation to certain CDS Contracts relating to indices, as the ''Additional Amount'') under the Contract Terms for such CDS Contract and, in relation to a Bilateral CDS Transaction, the payment, usually described therein as the ''Initial Payment Amount'' or ''Additional Amount,'' payable by one party thereto to the other on the third business day after the trade date of such Bilateral CDS Transaction. *See* ICE Clear Europe Clearing Rules, Section 1, Rule 101.

[4] The Commission has modified the text of the summaries prepared by ICE Clear Europe.

clearinghouse and clearing members and improve margin efficiency (as margin requirements will no longer need to take into account the additional risk from a T+3 as opposed to a T+1 settlement rule). ICE Clear Europe's CDS Risk Committee approved the proposed rule changes.

The other proposed changes in the ICE Clear Europe Rules reflect updates to cross-references and defined terms and similar drafting clarifications, and do not affect the substance of the ICE Clear Europe Rules or cleared products.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

ICE Clear Europe does not believe the proposed rule and procedural changes would have any impact, or impose any burden, on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) by order approve or disapprove the proposed rule change or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2012–04 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–ICEEU–2012–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICE_Clear_Europe_T+1_Settlement.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2012–04 and should be submitted on or before April 9, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[5]

**Kevin O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–6496 Filed 3–16–12; 8:45 am]

**BILLING CODE 8011–01–P**

[5] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66582; File No. SR–ISE–2012–16]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Amend ISE Rule 722 (Complex Orders) To Provide Its Members With a Choice in Executing Broker-Dealers for the Stock Leg(s) of Stock-Option Orders

March 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 29, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 722 (Complex Orders) to allow Members to execute the stock legs of stock-option orders through a broker-dealer of their choosing.

The text of the proposed rule change is available on the Exchange's Internet Web site at *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 the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

*Purpose*—Under the ISE's current procedure for executing stock-options orders, ISE Members may elect to have the ISE electronically communicate the stock leg(s) of a stock-option order to a designated broker-dealer for execution. To participate in the automated process, the ISE Member must have entered into a customer agreement with the designated broker-dealer. The ISE Member is responsible for fees and other charges the designated broker-dealer imposes from executing the trades, and the ISE receives no fees related to the stock portion of the stock-option trade.

The Exchange is now proposing to amend its Rule 722 to expand the service offered to ISE Members by accommodating multiple potential execution brokers. Under the proposal, the Exchange will connect to multiple broker-dealers for the execution of the stock component of stock-option orders. The Exchange will route orders to the broker-dealers using routing logic that takes into consideration objective factors, such as execution cost, speed of execution and fill rates, and ISE Members will have the ability to indicate preferred execution venues. The Exchange will have no financial arrangements with the executing broker-dealers with respect to routing the stock leg(s) of stock-option orders.

As is currently required, after the stock leg(s) of the orders are routed to a broker-dealer for execution, that broker-dealer will be responsible for determining whether the order may be executed in accordance with the applicable rules, such as the Regulation NMS trade-through rules. As with the current procedure, the stock-option order will not be executed on the ISE if the broker-dealer cannot execute the equity orders at the designated price.

ISE Members will continue to be required to enter into an agreement with the broker-dealer(s) to which their orders can be routed, and the Exchange's routing logic will only route orders to the broker-dealers with whom they have agreements. In this respect, ISE Members will continue to be required to enter into an agreement with the designated broker-dealer that the Exchange currently routes the stock-leg(s) to so that a [sic] there is at least one common available broker-dealer through which the matched stock-leg(s) may be executed.[3]

The Exchange also proposes to remove from its rules provisions related to the non-automatic execution of stock-option orders. Members have found the automatic execution of stock-option orders to be preferable and no longer enter stock-option orders for non-automatic execution.

*Basis*—The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act,[5] in particular, in that the proposal 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 regulating, clearing, settling processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, providing the ISE Members with multiple broker-dealers through which they may choose to have the stock leg(s) of their stock-option order routed will enable Members to avail themselves of pricing discounts. The Exchange believes that this will encourage members to route stock-option orders to the ISE, thus increasing the liquidity for stock-option orders executed on the ISE. Additionally, the Exchange believes it is fair and reasonable and not discriminatory to remove from the rules the ability for Members to execute stock-option orders in a non-automated manner, as there is no demand from Members for this execution alternative.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[3] In many cases, stock-option orders that are matched on the ISE have two different Members on the trade. The Exchange is not able to execute the stock legs of such a transaction unless both Members have an agreement with the broker-dealer to which the stock legs are routed.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2012–16 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–2012–16. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10

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–ISE–2012–16 and should be submitted on or before April 9, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–6497 Filed 3–16–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66583; File No. SR–Phlx–2012–32]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Price Improvement XL (''PIXL[SM]'')

March 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on March 9, 2012, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1080(n), Price Improvement XL (''PIXL[SM]''), to correct Rule 1080(n)(i)(A)(2) pertaining to PIXL Orders (described below) for the account of a public customer with a size of less than 50 contracts. The amended rule would reflect the correct price at which an Initiating Member (described below) must guarantee the execution of a PIXL Order (described below) that the Initiating Member submits into a PIXL Auction (described below).

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* 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 the 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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to correct Exchange Rule 1080(n), which governs the Exchange's price improvement auction mechanism, PIXL.[3] In the PIXL mechanism, a member (an ''Initiating Member'') must guarantee the execution of (*i.e.,* ''stop'') an order it represents as agent (''PIXL Order'') against principal interest or against any other order it represents as agent (an ''Initiating Order'') in the PIXL Auction (''Auction''), in which other participants may compete with the Initiating Member's order to execute against the PIXL Order. The correction concerns rule text respecting public customer PIXL Orders for less than 50 contracts that are entered into the Auction.

Exchange Rule 1080(n)(i) describes the circumstances under which an Initiating Member may initiate an Auction. Rule 1080(n)(i)(A)(1) states that if the PIXL Order is for the account of a public customer and is for a size of 50 contracts or more, the Initiating Member must stop the entire PIXL Order at a price that is equal to or better than the National Best Bid/Offer (''NBBO'') on the opposite side of the market from the PIXL Order, provided that such price must be at least one minimum price improvement increment (as determined by the Exchange but not smaller than one cent) better than any limit order on the limit order book on the same side of the market as the PIXL Order. The purpose of this provision is to ensure that public customer PIXL Orders for 50 contracts or more are guaranteed at least the NBBO but do not trade ahead of other limit orders already on the Exchange's limit order book at the existing limit price.

Currently, Exchange Rule 1080(n)(i)(A)(2) states that if the PIXL Order is for the account of a public customer and is for a size of less than 50 contracts, the Initiating Member must stop the entire PIXL Order at a price that is the better of: (i) the PHLX Best Bid/Offer (''PBBO'') price on the opposite side of the market from the PIXL Order improved by at least one minimum price improvement increment, or (ii) the PIXL Order's limit price (if the order is a limit order), provided in either case that such price is *better than the NBBO* (emphasis added), and at least one minimum price improvement increment better than any limit order on the book on the same side of the market as the PIXL Order.

In its filing to adopt the rules governing PIXL, and in the Notice of Filing of Proposed Rule Change published in the **Federal Register**,[4] the Exchange described its intent concerning the price at which an Initiating Member must stop a PIXL Order for the account of a public customer for a size of less than 50 contracts:

> ''[i]f the PIXL Order is for the account of a public customer and is for a size of less than 50 contracts, the Initiating Member must stop the entire PIXL Order at a price that is the better of: (i) The PBBO price on the opposite side of the market from the PIXL Order improved by at least one minimum price improvement increment, or (ii) the PIXL Order's limit price (if the order is a limit order), provided in either case that such price is *at or better* than the NBBO.'' (emphasis added).[5]

Despite this representation in the Notice of Filing, current Rule 1080(n)(i)(A)(2) states, in relevant part, ''[p]rovided in either case that such price is *better than the NBBO''* (emphasis added). By way of the omission of the words ''at or'' from Rule 1080(n)(i)(A)(2), the current rule does not accurately describe the operation of PIXL, and does not reflect Exchange's intent to permit Initiating Members to

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For a complete description of PIXL, *see* Securities Exchange Act Release No. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108).

[4] *See* Securities Exchange Act Release No. 62678 (August 10, 2010), 75 FR 50021 (August 16, 2010) (SR–Phlx–2010–108) (Notice of Filing of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to a Proposed Price Improvement System, Price Improvement XL (PIXL[SM])).

[5] *Id.* at p. 50021.

submit contra-side interest on the opposite side of the market from its public customer PIXL Order with a size of less than 50 contracts at a price that is at or better than the NBBO.

Stop Price

Respecting contra-side interest on the opposite side of the market from its public customer PIXL Order with a size of less than 50 contracts, an Initiating Member must stop such PIXL Order at a price that is (i) improved over the PBBO, and (ii) at or better than the NBBO. The following scenarios illustrate this requirement:

- If the PBBO is inferior to the NBBO, the Initiating Member must improve the PBBO and stop the PIXL Order at a price that is at the NBBO price or better than the NBBO price.
- If the PBBO is equal to the NBBO, the Initiating Member must improve the PBBO and stop the PIXL Order at a price that is better than the NBBO price, since the only way to improve the PBBO price is to improve the NBBO price.

The effect of this is that the PIXL Order will be guaranteed execution at a price that is better than the PBBO and at least as good as (''at'') the NBBO while providing the opportunity for execution at a price better than the NBBO. This is consistent with current Exchange rules describing the requirements for an Initiating Member to initiate an Auction respecting both public customer and non-public customer orders.[6]

Limit orders on the same side of the market as the PIXL Order will have priority at all prices in the PIXL Auction. The PIXL Order must, in order to initiate an Auction, be submitted with a better price than resting limit orders on the limit order book.

The Notice of Filing illustrates the Exchange's intent in establishing the price at which an Initiating Member must stop a PIXL Order for less than 50 contracts. The Exchange therefore proposes simply to add the words ''at or'' to Rule 1080(n)(i)(A)(2) to reflect the actual price at which Initiating Members must stop public customer PIXL Orders with a size of less than 50 contracts.

Rule 1080(n)(i)(A)(2) is part of a pilot that is effective for a period scheduled to expire July 18, 2012.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general and with Section 6(b)(5) of the Act,[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act [10] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes this proposal will increase the likelihood that participants will initiate Auctions for public customer PIXL Orders with a size of fewer than 50 contracts because the Initiating Member can guarantee such public customer orders price improvement over the PBBO while providing an opportunity for price improvement over the NBBO. The Exchange believes the proposal will also encourage increased participation in PIXL by participants willing to trade with orders of fewer than 50 contracts at prices better than PBBO and at least equal to the NBBO. This increased participation should result in a greater number of opportunities for price improvement.

The Exchange notes that both the Boston Options Exchange Group LLC (''BOX'') and the International Securities Exchange, LLC (''ISE'') allow entry of orders into Price Improvement Period (''PIP'') [11] and Price Improvement Mechanism (''PIM''),[12] respectively, at the NBBO without distinguishing between orders of more than or fewer than 50 contracts. Because BOX and ISE are currently able to offer their customers price improvement at the NBBO for orders of fewer than 50 contracts at the NBBO in PIP and PIM, respectively, the Exchange believes that it is important for competitive purposes that it be able to offer the same opportunities to its customers for price improvement via PIXL.

Additionally, an Initiating Member must always improve the PBBO—a PIXL Order may not be stopped at a price that is the same as that of a limit order resting on the limit order book, thus protecting investors who have submitted such resting limit orders, and thereby protecting the public interest.

This correction also protects investors and the public interest by accurately representing the price at which customer orders entered into the Auction are guaranteed an execution, making the process transparent in the marketplace as a whole. In particular, the Exchange believes this proposed rule change provides additional flexibility for Initiating Members to obtain executions on behalf of their customers while continuing to provide price improvement through meaningful, competitive PIXL Auctions. The Exchange also believes that that proposed rule change will ultimately enhance competition in the PIXL Auctions and provide customers with additional opportunities for price improvement. These changes are consistent with changes made by other exchanges and they serve to remove impediments to and to perfect the mechanism of a free and open market and a national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[6] To initiate the Auction, the Initiating Member must mark the PIXL Order for Auction processing, and specify either: (a) A single price at which it seeks to execute the PIXL Order (a ''stop price''); (b) that it is willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all PAN responses, and trading interest (''auto-match'') in which case the PIXL Order will be stopped at the NBBO on the Initiating Order side (if 50 contracts or greater) or, if less than 50 contracts, the better of: (i) the PBBO price on the opposite side of the market from the PIXL Order improved by one minimum price improvement increment, or (ii) the PIXL Order's limit price (if the order is a limit order), provided in either case that such price is at or better than the NBBO. *See* Exchange Rule 1080(n)(i)(A)(2).

[7] *See* Securities Exchange Act Release No. 65043 (August 5, 2011), 76 FR 49824 (August 11, 2011) (SR–Phlx–2011–104).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(8).

[11] *See* Securities Exchange Act Release No. 34–59654 (March 30, 2009), 74 FR 15551 (April 6, 2009) (SR–BX–2009–08) (order approving proposed rule change allowing entry of orders into PIP at the NBBO when BOX's best bid or offer is inferior to the NBBO with no order size distinction).

[12] *See* Securities Exchange Act Release No. 34–57847 (May 21, 2008), 73 FR 30987 (May 29, 2008) (SR–ISE–2008–29) (order approving proposed rule change allowing entry of orders into PIM at the NBBO when ISE's best bid or offer is inferior to the NBBO with no order size distinction).

*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: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) [14] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2012–32 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2012–32. 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 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2012–32, and should be submitted on or before April 9, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–6498 Filed 3–16–12; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

[15] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66580; File No. SR–BATS–2012–012]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Exchange Rule 14.3, Entitled ''General Procedures and Prerequisites for Initial and Continued Listing on the Exchange''

March 13, 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 8, 2012, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is filing with the Commission a proposal to amend Rule 14.3, entitled ''General Procedures and Prerequisites for Initial and Continued Listing on the Exchange'' to include additional requirements for the listing of securities that are issued by the Exchange or any of its affiliates.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts 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 a rule change to adopt a new Rule 14.3(e) that would impose additional reporting requirements on the Exchange should the Exchange or an affiliate of the Exchange list a security on the Exchange (collectively, the ''BATS Affiliates''). In the event that a BATS Affiliate seeks to list a security on the Exchange (the ''Affiliate Security''), the proposed rule change would require that prior to the initial listing of the Affiliate Security on the Exchange, Exchange personnel determine that such security satisfies the Exchange's rules for listing, and such finding must be approved by the Regulatory Oversight Committee of the Exchange's Board of Directors. The proposed rule change would also require the Exchange to prepare a

quarterly report for the Regulatory Oversight Committee of the Exchange's Board of Directors detailing: (1) The Exchange's monitoring of the Affiliate Security's compliance with the Exchange's listing standards, including the Affiliate Security's compliance with the Exchange's minimum share price requirement and the Affiliate Security's compliance with each of the quantitative continued listing requirements; and (2) the Exchange's monitoring of the trading of the Affiliate Security, including summaries of all related surveillance alerts, complaints, regulatory referrals, trades cancelled or adjusted pursuant to Rule 11.17, investigations, examinations, formal and informal disciplinary actions, exception reports and trading data used to ensure the Affiliate Security's compliance with the Exchange's listing and trading rules. The Exchange would be required to promptly furnish a copy of this quarterly report to the Commission.

To the extent the Exchange uses Exchange staff to conduct surveillance of trading activity on the Exchange, which it does today, the Exchange would be required to engage an independent third party once a year to review and prepare a report regarding surveillance of the Affiliate Security and promptly forward to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission a copy of the report prepared by the independent third party. In connection with the engagement of this third party, the Exchange would look for appropriate subject-matter expertise and would consider engaging appropriately qualified entities such as independent accounting firms, law firms, consulting firms or other self-regulatory organizations. The Exchange would also be required to commission an annual review and report by an independent accounting firm of the compliance of the Affiliate Security with the Exchange's listing requirements. The Exchange would be required to promptly furnish a copy of this annual report to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission.

In the event that the Exchange determines that the BATS Affiliate is not in compliance with any of the Exchange's listing standards, the rule would require the Exchange to notify the issuer of such non-compliance promptly and request a plan of compliance. The Exchange would be required to file a report with the Commission within five business days of providing such notice to the issuer of its non-compliance. The required report would identify the date of the non-compliance, type of non-compliance, and any other material information conveyed to the issuer in the notice of non-compliance. Within five business days of receipt of a plan of compliance from the issuer, the Exchange would be again required to notify the Commission of such receipt, whether the plan of compliance was accepted by the Exchange or what other action was taken with respect to the plan and the time period provided to regain compliance with the Exchange's listing standards, if any.

The Exchange is proposing to exclude from the definition of Rule 14.3(e)—solely for purposes of this rule—securities that meet the definition of ''Portfolio Depository Receipts'' and ''Index Fund Shares'' under Rules 14.11(b)(1)(A) and 14.11(c)(1)(A), respectively. These securities, commonly referred to as ''exchange traded funds'' or ''ETFs,'' are issued by investment companies registered under the Investment Company Act of 1940 and are based on an index or portfolio of securities. An ETF is designed to provide investment results that correspond generally to the price and yield performance of the underlying index or portfolio of securities. The Exchange believes that such securities do not present the same concerns as other securities, even if issued by a BATS Affiliate. ETFs, which do not represent investments in an individual company, are already exempt from a number of listing standards including corporate governance rules standards, such as the requirement to have a board of directors comprised of a majority of independent directors and to have a code of conduct applicable to all employees and directors. The Exchange does not believe that the additional reporting requirements in the proposed rule change would provide any value in this context because ETFs would not constitute an investment in a BATS Affiliate. Further, these issuers are already subject to a comprehensive scheme of regulation pursuant to the Investment Company Act of 1940.

The listing of securities of a BATS Affiliate could potentially create a conflict of interest between the Exchange's self regulatory responsibility to vigorously oversee the listing and trading of the stock on its market, and its own commercial or economic interests. Such ''self-listing'' may raise questions as to the Exchange's ability to independently and effectively enforce its rules against an affiliate or the operator/owner of its facility. In addition, such listing has the potential to exacerbate possible conflicts that may arise when the Exchange oversees competitors that may also be listed on the Exchange. The Exchange believes that the proposed rule change, by requiring heightened reporting by the Exchange to the Commission with respect to the Exchange's oversight of the listing and trading on the Exchange of the securities of any BATS Affiliate, will help protect against any concern that the Exchange will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with the Exchange's listing standards adds a degree of independent oversight to the Exchange's regulation of the listing of these securities, which should help mitigate against any potential or actual conflicts of interest. The Exchange also believes that the additional requirements contained in the proposed rule change would provide additional assurance that any Affiliate Securities listed on the Exchange by a BATS Affiliate comply with the Exchange's listing standards on an on-going basis. Finally, the Exchange believes that the proposed rule change would eliminate any perception of a potential conflict of interest if a BATS Affiliate seeks to list a security on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[3] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[4] because 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 mechanism of, a free and open market and a national market system. Specifically, the Exchange believes that the proposed rule change, by requiring heightened reporting by the Exchange to the Commission with respect to oversight of the listing and trading on the Exchange of Affiliate Securities, will help protect against concerns that the Exchange will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

the Exchange's listing standards adds a degree of independent oversight to the Exchange's regulation of the listing of these securities, which may mitigate any potential or actual conflicts of interest. Further, the additional requirements contained in the proposed rule change would help to provide additional assurance that any Affiliate Securities listed on the Exchange by a BATS Affiliate comply with the Exchange's listing standards both upon the initial listing of the BATS Affiliate and on an on-going basis. The Exchange believes that the proposed rule change would eliminate any perception of a potential conflict of interest if a BATS Affiliate seeks to list a security on the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change imposes any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Changes 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[5] and Rule 19b–4(f)(6) thereunder.[6]

The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it would permit the Exchange to immediately implement the proposed rule change in the event an Affiliate seeks to list on the Exchange.[7] The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to implement protections against potential conflicts of interest that may arise from listing an Affiliate security on the Exchange without undue delay. The Commission notes that the proposed rule change is based on and similar to New York Stock Exchange Rule 497.[8] Therefore, the Commission designates the proposal operative upon filing.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2012–012 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2012–012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BATS–2012–012 and should be submitted on or before April 9, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–6495 Filed 3–16–12; 8:45 am]

**BILLING CODE 8011–01–P**

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 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.

[7] *See* SR–BATS–2012–012, Item 7.

[8] *See id. See also* Securities Exchange Act Release Nos. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–77) and 55293 (February 14, 2007), 72 FR 8033 (February 22, 2007) (SR–NYSE–2006–120).

[9] 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).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### Eugene Science, Inc., Order of Suspension of Trading

March 15, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Eugene Science, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on March 15, 2012, through 11:59 p.m. EDT on March 28, 2012.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2012–6661 Filed 3–15–12; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### ASP Ventures Corp., Order of Suspension of Trading

March 15, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ASP Ventures Corp. because it has not filed any periodic reports since the period ended September 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on March 15, 2012, through 11:59 p.m. EDT on March 28, 2012.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2012–6663 Filed 3–15–12; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### Asiamart, Inc., Order of Suspension of Trading

March 15, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Asiamart, Inc. because it has not filed any periodic reports since the period ended March 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on March 15, 2012, through 11:59 p.m. EDT on March 28, 2012.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2012–6664 Filed 3–15–12; 4:15 pm]

**BILLING CODE 8011–01–P**

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and information collections in use without an OMB number.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Officer, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, Email address: *OPLM.RCO@ssa.gov.*

SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 18, 2012. Individuals can obtain copies of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above email address.

1. *Notice to Show Cause for Failure to Appear—20 CFR 404.938, 416.1438, 404.957(a)(ii)–0960–NEW.* When claimants who requested a hearing before an administrative law judge (ALJ) fail to appear at their scheduled hearing, the ALJ may reschedule the hearing if the claimants establish good cause for missing the hearings. The claimants can provide a reason for not appearing at their scheduled hearings using Form HA–L90. If the ALJ determines the claimants established good cause for failure to appear at the hearing, the ALJ will schedule a supplemental hearing; if not, the ALJ makes a claims eligibility determination based on the claimants' evidence of record. Respondents are claimants seeking to show cause for failure to appear at a scheduled hearing before an ALJ.

*Type of Request:* Existing collection in use without an OMB number.

| Collection instrument | Number of responses | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| HA–L90 PDF/Paper | 7,000 | 1 | 10 | 1,167 |
| Electronic Records Express | 28,000 | 1 | 10 | 4,667 |
| Total | 35,000 | | | 5,834 |

2. *Request for Documents or Information—20 CFR 404.703–0960–NEW.* SSA asks individuals applying for Social Security benefits for additional information when the information they provided is incomplete or insufficient for us to determine their eligibility for benefits. SSA uses the SSA–2118–U2, Request for Documents or Information, to request the additional documents or information we need to process individuals' claims for benefits. Respondents are claimants for title II Social Security Old Age, Survivors, and Disability Insurance benefits.

*Type of Request:* Existing collection in use without an OMB number.

| Collection instrument | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–2118–U2 | 7,500 | 1 | 5 | 625 |

3. *Statement of Living Arrangements, In-Kind Support and Maintenance—20 CFR 416.1130–416.1148—0960–0174.* SSA determines Supplemental Security Income (SSI) payment amounts based on applicants' and recipients' needs. We measure individuals' needs, in part, by the amount of income they receive, including in-kind support and maintenance in the form of food and shelter provided by other persons. SSA uses information from Form SSA–8006–F4 to determine if in-kind support and maintenance exists for SSI applicants and recipients. This information also assists SSA in determining the income value of in-kind support and maintenance SSI applicants and recipients receive. The respondents are individuals who apply for SSI payments, or who complete an SSI eligibility redeterminination.

*Type of Request:* Revision of an OMB-approved information collection.

| Collection instrument | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–8006–F4 | 173,380 | 1 | 7 | 20,228 |

4. *Statement of Funds You Provided to Another and Statement of Funds You Received—20 CFR 416.1103(f)—0960–0481.* SSA uses Forms SSA–2854 and SSA–2855 to gather information to verify if a loan is bona fide for SSI recipients. The SSA–2854 asks the lender for details on the transaction, and Form SSA–2855 asks the borrower the same basic questions independently. Agency personnel then compare the two statements, gather evidence if needed, and make a decision on the validity of the bona fide status of the loan.

For SSI purposes, we consider a loan bona fide if it meets these requirements:

- Must be between a borrower and lender with the understanding that the borrower has an obligation to repay the money;
- Must be in effect at the time the cash goes to the borrower, that is, the agreement cannot come after the cash is paid; and
- Must be enforceable under State law; often there are additional requirements from the State.

SSA collects this information at the time of initial application for SSI or at any point when an individual alleges being party to an informal loan while receiving SSI. SSA collects information on the informal loan through both interviews and mailed forms. The agency's field personnel conduct the interviews and mail the form(s) for completion, as needed. The respondents are SSI recipients and applicants, and individuals who lend money to them.

*Type of Request:* Revision of an OMB-approved information collection.

| Form | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–2854 | 20,000 | 1 | 10 | 3,333 |
| SSA–2855 | 20,000 | 1 | 10 | 3,333 |
| Totals | 40,000 | ..... | ..... | 6,666 |

5. *Certification of Low Birth Weight for SSI Eligibility of Funds You Provided to Another and Statement of Funds You Received—20 CFR 416.931, 416.926a(m), and 416.924—0960–0720.* Hospitals and claimants use Form SSA–3380 to provide medical information to local field offices (FO) and the Disability Determination Services (DDS) on behalf of infants with low birth weight. FOs use the form as a protective filing statement and the medical information to make presumptive disability findings, which allow expedited payment to eligible claimants. DDSs use the medical information to determine disability and continuing disability. The respondents are hospitals and claimants who have information identifying low birth weight babies and their medical conditions.

This is a correction notice. SSA published this information collection as an extension on January 3, 2012 at 77 FR 147. Since we are revising the Privacy Act Statement, this is actually a revision of an OMB-approved information collection.

*Type of Request:* Revision of an OMB-approved information collection.

| Collection instrument | Number of respondents | Frequency of response | Average burden of response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–3380 | 24,000 | 1 | 15 | 6,000 |

Dated: March 14, 2012.

**Faye Lipsky,**

*Reports Clearance Director, Office of Regulations and Reports Clearance, Social Security Administration.*

[FR Doc. 2012–6499 Filed 3–16–12; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2012–0029]**

### Reports, Forms, and Recordkeeping Requirements

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Written comments should be submitted by May 18, 2012.

**ADDRESSES:** You may submit comments [identified by Docket No. NHTSA–2012–0029] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–(202) 493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael Pyne, 202–366–4171, Office of Rulemaking (NVS–123), 1200 New Jersey Avenue SE., W43–457, Washington, DC, 20590.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2127–0621.

*Title:* 49 CFR 571.403, Platform lift systems for motor vehicles and 49 CFR 571.404, Platform lift installations in motor vehicles.

*Form Numbers:* None.

*Type of Review:* Renewal of a previously approved information Collection.

**Background**

FMVSS No. 403, Platform lift systems for motor vehicle, establishes minimum performance standards for platform lifts designed for installation on motor vehicles. Its purpose is to prevent injuries and fatalities to passengers and bystanders during the operation of platform lifts that assist wheelchair users and other persons with limited mobility in entering and leaving a vehicle. FMVSS No. 404, Platform lift installations in motor vehicles, places specific requirements on vehicle manufacturers or alterers who install platform lifts in new vehicles. Under these regulations, lift manufacturers must certify that their lifts meet the requirements of FMVSS No. 403 and must declare the certification on the owner's manual insert, the installation instructions and the lift operating instruction label. Certification of compliance with FMVSS No. 404 is on the certification label already required of vehicle manufacturers and alterers under 49 CFR part 567. Therefore, lift manufacturers must produce an insert that is placed in the vehicle owner's manual, installation instructions and one or two labels that are placed near the controls of the lift. The requirements and our estimates of burden and cost to the lift manufacturers are given below. There is no burden to the general public.

*Respondents:* Platform lift manufacturers and vehicle manufacturers/alterers that install platform lifts in new motor vehicles before first vehicle sale.

*Estimated Number of Respondents:* 10.

**Estimated Total Annual Burden**

Estimated burden to lift manufacturers to produce an insert for the vehicle owner's manual stating the lift's platform operating volume, maintenance schedule, and instructions regarding the lift operating procedures:

—10 manufacturers × 24 hrs. amortized over 5 yrs. = 48 hrs. per year.

Estimated burden to lift manufacturers to produce lift installation instructions identifying the vehicles on which the lift is designed to be installed:

—10 manufacturers × 24 hrs. amortized over 5 yrs. = 48 hrs. per year.

Estimated burden to lift manufacturers to produce two labels for operating and backup lift operation:

—10 manufacturers × 24 hrs. amortized over 5 yrs. = 48 hrs. per year.

Estimated burden to lift manufacturers to produce two labels for operating and backup lift operation:

—10 manufacturers × 24 hrs. amortized over 5 yrs. = 48 hrs. per year.

Estimated cost to lift manufacturers to produce:

—Label for operating instructions—27,398 lifts × $0.13 per label = $3,561.74.

—Label for backup operations—27,398 lifts × $0.13 per label = $3,561.74.

—Owner's manual insert—27, 398 lifts × $0.04 per page × 1 page = $1,095.92.

—Installation instructions—27,398 lifts × $0.04 per page × 1 page = $1,095.92.

**Note:** Although lift installation instructions are considerably more than one page, lift manufacturers already provide lift installation instructions in the normal course of business and one additional page should be adequate to allow the inclusion of FMVSS specific information.

Total estimated annual cost = $9,315.32.

Total estimated hour burden per year = 144 hours.

Estimated Number of Respondents: 10.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 13, 2012.

**Nathaniel Beuse,**

*Director, Office of Crash Avoidance Standards.*

[FR Doc. 2012–6534 Filed 3–16–12; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Research and Innovative Technology Administration

### Bureau of Transportation Statistics

**[Docket: RITA 2008–0002 BTS Paperwork Reduction Notice]**

### Agency Information Collection; Activity Under OMB Review; Report of Extension of Credit to Political Candidates—Form 183

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need and usefulness of BTS collecting reports from air carriers on the aggregated indebtedness balance of a political candidate or party for Federal office. The reports are required when the aggregated indebtedness is over $5,000 on the last day of a month.

**DATES:** Written comments should be submitted by May 17, 2012.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number RITA 2008–0002 by any of the following methods:

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

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

*Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

*Fax:* 202–493–2251.

*Instructions:* Identify docket number, BTS 2008–0002, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** Jeff Gorham, Office of Airline Information, RTS–42, Bureau of Transportation Statistics, 1200 New Jersey Avenue Street SE., Washington, DC 20590–0001, (202) 366–4406.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval No.* 2138–0016.

*Title:* Report of Extension of Credit to Political Candidates—Form 183 14 CFR Part 374a.

*Form No.:* 183.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Certificated air carriers.

*Number of Respondents:* 2 (Monthly Average).

*Number of Responses:* 24.

*Estimated Time per Response:* 1 hour.

*Total Annual Burden:* 24 hours.

*Needs and Uses:* The Department uses this form as the means to fulfill its obligation under the Federal Election Campaign Act of 1971 (the Act). The Act's legislative history indicates that one of its statutory goals is to prevent candidates for Federal political office from incurring large amounts of unsecured debt with regulated transportation companies (e.g. airlines). This information collection allows the Department to monitor and disclose the amount of unsecured credit extended by airlines to candidates for Federal office. All certificated air carriers are required to submit this information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on March 13, 2012.

**Pat Hu,**

*Director, Bureau of Transportation Statistics.*

[FR Doc. 2012–6529 Filed 3–16–12; 8:45 am]

**BILLING CODE 4910–HY–P**

## DEPARTMENT OF THE TREASURY

**[Docket No. BPD–2012–001]**

### Public Input on the Development and Potential Issuance of Treasury Floating Rate Notes

**AGENCY:** Office of the Assistant Secretary for Financial Markets, Treasury.

**ACTION:** Notice and request for information.

**SUMMARY:** The Secretary of the Treasury (''Secretary'') is authorized under Chapter 31 of Title 31, United States Code, to issue United States obligations and to offer them for sale under such terms and conditions as the Secretary may prescribe. The Department of the Treasury (''Treasury'') is requesting comments on the potential issuance of a floating rate note. Treasury is particularly interested in comments concerning the demand for the product, how the security should be structured, its liquidity, and any operational issues that should be considered relating to the issuance of this type of debt. Treasury has not made a decision to issue floating rate notes. Treasury will continue to weigh the relative merits of issuing floating rate notes, and comments received as part of this Request for Information will serve as valuable input into this decision.

**DATES:** Submit comments on or before April 18, 2012.

**ADDRESSES:** Comments may be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions. Comments will be available at *http://www.regulations.gov* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. You may download this Request for Information from *http://www.regulations.gov* or the Bureau of the Public Debt's Web site at *http://www.treasurydirect.gov.* You may also send paper comments to Department of the Treasury, Bureau of the Public Debt, Government Securities Regulations Staff, 799 9th Street NW., Washington, DC 20239–0001. Comments received will be available for public inspection and copying at the Treasury Department

Library, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment. In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not submit any information in your comments or supporting materials that you consider confidential or inappropriate for public disclosure.

Responses should also include: (1) The data or rationale, including examples, supporting any opinions or conclusions; (2) alternative approaches and options that should be considered, if any; and, (3) any specific comments regarding general terms and conditions for the sale and issuance of floating rate notes.

**FOR FURTHER INFORMATION CONTACT:** Lori Santamorena, Executive Director; Kurt Eidemiller, Associate Director; or Kevin Hawkins, Government Securities Advisor; Department of the Treasury, Bureau of the Public Debt, Government Securities Regulations Staff, (202) 504–3632.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Treasury continually seeks ways to minimize borrowing costs, better manage its liability profile, enhance market liquidity, and expand the investor base in Treasury securities. To help meet these objectives, Treasury announced at its February 2012 Quarterly Refunding that it continues to study the possibility of issuing floating rate notes (FRNs), a security with a return that is indexed and periodically reset. Examining alternative forms and structures of debt issuance is consistent with Treasury's mission of financing the government at the lowest cost over time. Treasury has discussed the issuance of FRNs with the Treasury Borrowing Advisory Committee (TBAC), which is a federal advisory committee sponsored by the Securities Industry and Financial Markets Association (SIFMA), and with the primary dealers. These discussions have provided a significant amount of constructive feedback. However, prior to making a decision, Treasury is soliciting a broader range of input from a variety of market participants on demand for the product and its liquidity, as well as structural and operational issues that Treasury should consider.

## II. Solicitation for Comments

Commenters are invited to submit views on the following questions:

1. Would FRNs attract new investors into the Treasury market for a sustained period of time?

2. Would a Treasury FRN help meet the investment needs of retail and institutional investors?

3. How liquid would you expect FRNs to be in the secondary markets?

4. What is the ideal structure for a Treasury FRN?

a. What is the ideal final maturity for a Treasury FRN?

b. What are the pros and cons of using the following reference rates for a Treasury FRN: Treasury bills, a Treasury general collateral-based repurchase agreement (''repo'') rate, and the federal funds effective rate? Are there any other reference rates that merit consideration?

c. What would be the appropriate coupon payment frequency of a Treasury FRN?

5. What changes to trading, settlement and accounting systems would be needed to accommodate FRNs?

6. Are there any other operational issues that Treasury should be aware of when deciding on whether to issue FRNs?

7. Given the above considerations, are FRNs a useful debt management tool that Treasury should consider?

**Mary J. Miller,**

*Assistant Secretary for Financial Markets.*

[FR Doc. 2012–6662 Filed 3–15–12; 8:45 am]

**BILLING CODE 4810–39–P**

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions (CDFI) Fund, a wholly owned government corporation within the Department of the Treasury, is soliciting comments concerning the CDFI Program Application.

**DATES:** Written comments should be received on or before May 18, 2012 to be assured of consideration.

**ADDRESSES:** Direct all comments to Ruth Jaure, CDFI Program Manager, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street NW., Suite 200 South, Washington, DC 20005, by email to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 622–7754. Please note this is not a toll free number.

**FOR FURTHER INFORMATION CONTACT:** The CDFI Program Application may be obtained from the CDFI Program page of the CDFI Fund's Web site at *http://www.cdfifund.gov*. Requests for additional information should be directed to Ruth Jaure, CDFI Program Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street NW., Suite 200 South, Washington, DC 20005, or call (202) 622–9156. Please note this is not a toll free number.

**SUPPLEMENTARY INFORMATION:**

*Title:* CDFI Program Application.

*OMB Number:* 1559–0021.

*Abstract:* The Community Development Financial Institutions (CDFI) Program was established by the Riegle Community Development and Regulatory Improvement Act of 1994 to use Federal resources to invest in and build the capacity of CDFIs to serve low-income people and communities lacking adequate access to affordable financial products and services. Through the CDFI Program, the CDFI Fund provides: (1) Financial Assistance (FA) awards to CDFIs that have Comprehensive Business Plans for creating demonstrable community development impact through the deployment of credit, capital, and financial services within their respective Target Markets or the expansion into new Investment Areas, Low-Income Targeted Populations, or Other Targeted Populations, and (ii) Technical Assistance (TA) grants to CDFIs and entities proposing to become CDFIs in order to build their capacity to better address the community development and capital access needs of their existing or proposed Target Markets and/or to become certified CDFIs. The regulations governing the CDFI Program are found at 12 CFR part 1805 and provide guidance on evaluation criteria and other requirements of the CDFI Program.

The questions that the application contains, and the information generated thereby, will enable the CDFI Fund to evaluate applicants' activities and determine the extent of applicants' eligibility for a CDFI Program award. Failure to collect this information could result in improper uses of Federal funds.

*Current Actions:* Revision of a currently approved collection.

*Type of Review:* Regular Review.

*Affected Public:* Certified CDFIs and entities seeking CDFI Certification.

*Estimated Number of Respondents:* 400.

*Estimated Annual Time per Respondent:* 100 hours.

*Estimated Total Annual Burden Hours:* 40,000.

*Requests for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the CDFI Fund Web site at *http://www.cdfifund.gov*. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CDFI Fund, including whether the information shall have practical utility; (b) the accuracy of the CDFI Fund's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The CDFI Fund specifically requests comments concerning the following questions:

(1) Is targeting CDFI Program award funds into highly distressed communities an appropriate use of CDFI Program funds?

(2) Are there ways that the fillable PDF application form can be improved that would ease applicant paperwork burden?

(3) Should detailed Matching Funds documentation be collected later in the application review process and, if so, what would be a reasonable amount of time to expect an applicant to provide such documentation?

(4) Does the application ask the appropriate questions to determine applicant's financial health and viability?

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713, 4717; 31 U.S.C 321; 12 CFR part 1806.

**Dawn D. Wolfgang,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2012–6490 Filed 3–16–12; 8:45 am]

**BILLING CODE 4810–70–P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### Proposed Renewal Without Change; Comment Request; Customer Identification Programs for Various Financial Institutions

**AGENCY:** Financial Crimes Enforcement Network (FinCEN).

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a proposed renewal, without change, to information collections found in regulations requiring futures commission merchants, introducing brokers, banks, savings associations, credit unions, certain non-federally regulated banks, mutual funds, and broker-dealers, to develop and implement customer identification programs reasonably designed to prevent those financial institutions from being used to facilitate money laundering and the financing of terrorist activities. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

**DATES:** Written comments are welcome and must be received on or before May 18, 2012.

**ADDRESSES:** Written comments should be submitted to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183, Attention: Customer Identification Program Comments. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov,* again with a caption, in the body of the text, ''Attention: Customer Identification Program Comments.''

*Inspection of comments:* Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Policy and Programs Division at 800–949–2732 option 6.

**SUPPLEMENTARY INFORMATION:**

*Abstract:* FinCEN exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act of 2001 and other legislation. This legislative framework is commonly referred to as the ''Bank Secrecy Act'' (''BSA'').[1] The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.[2] Pursuant to this authority, FinCEN may issue regulations requiring financial institutions to keep records and file reports that ''have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.''[3] Additionally, FinCEN is authorized to impose regulations to maintain procedures to ensure compliance with the BSA and FinCEN's implementing regulations, or to guard against money laundering, which includes imposing anti-money laundering (''AML'') program requirements on financial institutions.[4]

Section 5318(l) of the Bank Secrecy Act authorizes FinCEN to issue regulations prescribing customer identification programs for financial institutions. The regulations must require that, at a minimum, financial institutions implement reasonable procedures for (1) verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; (2) maintaining records of the information used to verify the person's identity, including name, address, and other identifying information; and (3) determining whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency. The regulations are to take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available. Regulations implementing section 5318(l) are found at 31 CFR 1020.220, 1023.220, 1026.220, and 1024.220.

1. *Title:* Customer identification programs for banks, savings associations, credit unions, and certain non-federally regulated banks. (31 CFR 1020.220).

*Office of Management and Budget Control Number (OMB):* 1506–0026.

[1] The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314, and 5316–5332 and notes thereto, with implementing regulations at 31 CFR Chapter X. *See* 31 CFR 1010.100(e).

[2] Treasury Order 180–01 (Sept. 26, 2002).

[3] 31 U.S.C. 5311.

[4] 31 U.S.C. 5318(a) and (h).

*Abstract:* Banks, savings associations, credit unions, and certain non-federally regulated banks are required to develop and maintain customer identification programs and provide their customers with notice of the programs. (See FR 68, 25090, May 9, 2003).

*Current Action:* There is no change to existing regulations.

*Type of Review:* Extension of a currently approved information collection.

*Affected Public:* Business and other for profit institutions and non-profit institutions.

*Burden:* Estimated Number of Respondents 22,060.

*Estimated Average Annual Recordkeeping Burden per Respondent:* 10 hours.

*Estimated Average Annual Disclosure Burden per Respondent:* 1 hour.

*Estimated Total Annual Respondent Burden:* 242,660 hours.

2. *Title:* Customer identification program for broker-dealers (31 CFR 1023.220).

*OMB Control Number:* 1506–0034.

*Abstract:* Broker-dealers are required to establish and maintain customer identification programs and provide their customers with notice of the programs. (See FR 68, 25113, May 9, 2003).

*Current Action:* There is no change to existing regulations.

*Type of Review:* Extension of a currently approved information collection.

*Affected Public:* Business and other for profit institutions.

*Burden:* Estimated Number of Respondents 5,448.

*Estimated Average Annual Burden per Respondent:* The estimated average burden associated with the notice requirement is two minutes per respondent.

*Estimated Number of Hours:* 630,896.

3. *Title:* Customer identification programs for futures commission merchants and introducing brokers (31 CFR 1026.220).

*OMB Control Number:* 1506–0022.

*Abstract:* Futures commission merchants and introducing brokers are required to develop and maintain customer identification programs and provide their customers with notice of the programs. (See FR 68, 25149, May 9, 2003).

*Current Action:* There is no change to existing regulations.

*Type of Review:* Extension of a currently approved information collection.

*Affected Public:* Business and other for profit institutions.

*Burden:* Estimated Number of Respondents: 1856.

*Estimated Average Annual Burden per Respondent:* The estimated average burden associated with the notice requirement is two minutes per respondent.

*Estimated Number of Hours:* 20,471.

4. *Title:* Customer identification programs for mutual funds (31 CFR 1024.220).

*OMB Control Number:* 1505–0033.

*Abstract:* Mutual funds are required to establish and maintain customer identification programs and provide their customers with notice of the programs. (See FR 68, 25131, May 9, 2003).

*Current Action:* There is no change to existing regulations.

*Type of Review:* Extension of a currently approved information collection.

*Affected Public:* Business and other for profit institutions.

*Burden:* Estimated Number of Respondents: 2,296.

*Estimated Average Annual Burden per Respondent:* The estimated average burden associated with the notice requirement is 2 minutes per respondent.

*Estimated Number of Hours:* 266,700.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected: (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 13, 2012.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 2012–6479 Filed 3–16–12; 8:45 am]

**BILLING CODE 4810–02–P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### Agency Information Collection Activities; Proposed Collection; Comment Request; Report of International Transportation of Currency or Monetary Instruments

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice and request for comments regarding the renewal without change of the Report of International Transportation of Currency or Monetary Instruments (CMIR).

**SUMMARY:** As part of our continuing effort to reduce paperwork and respondent burden, FinCEN invites the general public and other Federal agencies to comment on an information collection requirement concerning the CMIR. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 10 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before May 18, 2012 to be assured of consideration.

**ADDRESSES:** Direct all written comments to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183–0039, *Attention:* PRA Comments—Report of International Transportation of Currency or Monetary Instruments. Comments also may be submitted by electronic mail to the following Internet address: ''regcomments@fincen.gov'' with the caption in the body of the text, ''*Attention:* PRA Comments—Report of International Transportation of Currency or Monetary Instruments.''

*Inspection of comments:* Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (Not a toll free call).

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Helpline at 800–949–2732, select option 6. A copy of the form may also be obtained from the FinCEN Web site at *http://*

*www.fincen.gov/forms/files/fin105_cmir.pdf.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of International Transportation of Currency or Monetary Instruments (CMIR).

*Office of Management and Budget Number (OMB):* 1506–0014.

*Form Number:* FinCEN Form 105.

*Abstract:* FinCEN exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act of 2001 and other legislation. This legislative framework is commonly referred to as the ''Bank Secrecy Act'' (''BSA'').[1] The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer and enforce compliance with the BSA and associated regulations.[2] Pursuant to this authority, FinCEN may issue regulations requiring financial institutions to keep records and file reports that ''have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'' [3] Additionally, FinCEN is authorized to impose regulations to maintain procedures to ensure compliance with the BSA and FinCEN's implementing regulations, or to guard against money laundering, which includes imposing anti-money laundering (''AML'') program requirements on financial institutions.[4]

Pursuant to the BSA, the requirement of 31 U.S.C. 5316(a) has been implemented through regulations promulgated at 31 CFR 1010.340 and through the instructions for the CMIR as follows:

(1) Each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped currency or other monetary instruments in an aggregate amount exceeding $10,000 at one time from the United States to any place outside the United States or into the United States from any place outside the United States, and

(2) Each person who receives in the United States currency or other monetary instruments in an aggregate amount exceeding $10,000 at one time which have been transported, mailed, or shipped to the person from any place outside the United States. A transfer of funds through normal banking procedures, which does not involve the physical transportation of currency or monetary instruments, is not required to be reported on the CMIR.

Information collected on the CMIR is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel in the official performance of their duties. The information collected is of use in investigations involving international and domestic money laundering, tax evasion, fraud, and other financial crimes.

*Current Actions:* Renewal without change.[5]

*Type of Review:* Renewal of a currently approved collection.

*Affected Public:* Individuals, business or other for-profit institutions, and not-for-profit institutions.

*Estimated Number of Respondents:* 280,000.

*Estimated Time per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 140,000 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 13, 2012.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 2012–6477 Filed 3–16–12; 8:45 am]

**BILLING CODE 4810–02–P**

[1] The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332 and notes thereto, with implementing regulations at 31 CFR chapter X. *See* 31 CFR 1010.100(e).

[2] Treasury Order 180–01 (Sept. 26, 2002).

[3] 31 U.S.C. 5311.

[4] 31 U.S.C. 5318(a) and (h).

[5] On October 17, 2011, FinCEN published an NPRM (*See* 76 FR 64049) requesting comments on the proposed change to the definition of ''monetary instrument'' in the BSA. The comment period closed December 16, 2011. FinCEN received 14 comments in response (See *http://www.regulations.gov/*and search on RIN 1506–AB13). Any changes resulting from this NPRM will be the subject of a subsequent notice.

## DEPARTMENT OF VETERANS AFFAIRS

### Tribal Consultations

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Tribal Consultation.

**SUMMARY:** The Department of Veterans Affairs (VA) Office of Tribal Government Relations (OTGR) will host a Tribal Consultation on the following VA programs: Native American Direct Loan Program, Tribal Cemetery Grants, and local implementation of the 2010 VA/Indian Health Service (IHS) Memorandum of Understanding (MOU).

**DATES:** Comments must be submitted to VA no later than Friday, March 30, 2012. The Consultation Session will be held on April 5, 2012.

**ADDRESSES:** The Consultation Session will be held at L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024, at 9 a.m., Eastern Standard Time.

**FOR FURTHER INFORMATION CONTACT:** Erika Moott, Executive Officer, VA Office of Tribal Government Relations at (202) 461–7400, by email at *Tribalgovernmentconsultation@va.gov,* or by mail at Suite 915L, 810 Vermont Avenue NW., Washington, DC 20420.

**SUPPLEMENTARY INFORMATION:** On November 6, 2000, President Clinton signed Executive Order 13175 entitled ''Consultation and Coordination With Indian Tribal Governments,'' in order to ''establish regular and meaningful consultation and collaboration with [T]ribal officials in the development of Federal policies that have Tribal implications, to strengthen the United States government-to-government relationships with Indian Tribes, and to reduce the imposition of unfunded mandates upon Indian Tribes * * *''

On November 5, 2009, President Obama signed the Memorandum on Tribal Consultation, pronouncing Tribal consultations a critical ingredient of a sound and productive Federal-Tribal relationship. The Presidential Memorandum directs all Federal

agencies to develop a detailed plan of action to implement Executive Order 13175 and to engage in regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications. The President stated that his Administration is committed to complete and consistent implementation of Executive Order 13175.

As provided in President Obama's Memorandum on Tribal Consultation, ''[t]he United States has a unique legal and political relationship with [American Indian/Alaska Native Tribal governments], established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions. In recognition of that special relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies * * * are charged with engaging in regular and meaningful consultation and collaboration with [T]ribal officials in the development of Federal policies that have [T]ribal implications, and are responsible for strengthening the government-to-government relationship between the United States and [American Indian/Alaska Native Tribes].''

The following topics will be discussed during consultation:

*National Cemetery Administration:* In January 2012, VA issued a final rule, 77 FR 4471, amending VA's regulations governing Federal grants for the establishment, expansion, and improvement of veterans cemeteries. This final rule implemented through regulation section 403 of the ''Veterans Benefits, Health Care, and Information Technology Act of 2006,'' which establishes eligibility for Tribal Organizations to apply for grants for Veterans cemeteries on Trust Lands. Public Law 109–461, 120 Stat. 3403 (Dec. 22, 2006); *see also* 38 U.S.C. 2408(f). This authority allows VA to award grants under the Veterans Cemetery Grant Program to Tribal Organizations in the same manner, and under the same conditions, as grants to States. VA will consult with Tribes on recommendations for increasing outreach and awareness of the funding opportunity in addition to seeking input on challenges Tribes experience in applying for these grants.

*Veterans Health Administration:* The VA–IHS MOU was signed by Dr. Petzel and Dr. Roubideaux on October 1, 2010. The purpose of the MOU is to enhance the health care status of American Indian and Alaska Native (AI/AN) Veterans through the delivery of accessible and quality health care services. This will be accomplished by establishing greater collaboration and resource-sharing between both agencies. VA will consult with Tribes on recommendations for increasing Tribal Government involvement in MOU workgroups and workgroup activities at the national and local levels.

*Veterans Benefits Administration:* The Native American Veteran Direct Loan Program (NADL), created by Congress in 1992, enables eligible veterans the opportunity to obtain VA direct loan benefits on Federal trust land. Until the creation of this program, the only way a Native American Veteran could use a VA-housing benefit was to try to find a mortgage lender willing to make a VA-guaranteed loan on Federal trust land. Lenders have been historically reluctant to lend money to finance the purchase of homes on land held in trust by the Federal Government. VA will consult with Tribes on recommendations for increasing awareness and utilization of the Native American Direct Loan.

Comments must be submitted to VA no later than Friday, March 30, 2012, to: Erika Moott, Executive Officer, VA Office of Tribal Government Relations at (202) 461–7400, by email at *Tribalgovernmentconsultation@va.gov,* or by mail at Suite 915L, 810 Vermont Avenue NW., Washington, DC 20420. However, this deadline does not preclude anyone from providing testimony at the session and we will, to the extent that time allows, hear your testimony. If you plan on attending to present your testimony, please provide the name, title, and Tribe of the individual who will be presenting to Erika Moott. In order to facilitate the discussion, we ask that presenters provide a brief overview of the testimony and include the specific issues to be addressed at the session. For any Tribe unable to attend to present testimony, please be aware that OTGR will keep the testimony record open for 30 days after the date of the consultation. After 30 days, OTGR will provide written responses to all comments received, including those that were presented in person.

To register for the consultation, please submit your name, Tribe or organization, phone, and email address to *Tribalgovernmentconsultation@va.gov.*

Approved: March 12, 2012.

**John R. Gingrich,**

*Chief of Staff, Department of Veterans Affairs.*

[FR Doc. 2012–6590 Filed 3–16–12; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

Vol. 77 Monday,
No. 53 March 19, 2012

Part II

## Department of Health and Human Services

Food and Drug Administration

21 CFR Part 866

Draft Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens; Availability; Microbiology Devices; Reclassification of Nucleic Acid-Based Systems for *Mycobacterium tuberculosis* Complex; Notice and Proposed Rule

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–D–0179]**

### Draft Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens.'' This document was developed to support the reclassification of nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens from class III into class II. These devices are intended to be used as an aid in the diagnosis of pulmonary tuberculosis. This draft guidance document describes a means by which in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens may comply with the requirement of special controls for class II devices.

**DATES:** Although you can comment on any guidance at any time (*see* 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by June 18, 2012.

**ADDRESSES:** Submit written requests for single copies of the draft guidance document entitled ''Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Janice Washington, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5554, Silver Spring, MD 20993–0002, (301) 796–6207.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to reclassify nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens into class II (special controls) from class III. Nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens are qualitative nucleic acid-based in vitro diagnostic devices intended to detect *M. tuberculosis* complex nucleic acids extracted from human respiratory specimens. These devices are non-multiplexed and intended to be used as an aid in the diagnosis of pulmonary tuberculosis when used in conjunction with clinical and other laboratory findings. These devices do not include devices intended to detect the presence of organism mutations associated with drug resistance. Respiratory specimens may include sputum (induced or expectorated), bronchial specimens (*e.g.,* bronchoalveolar lavage or bronchial aspirate), or tracheal aspirates.

This draft guidance document identifies the proposed classification regulation, the product code, and identifies issues of safety and effectiveness that require special controls. FDA believes that the special controls described in the draft guidance when combined with the general controls will be sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

#### II. Significance of Guidance

FDA believes that adherence to the recommendations described in this guidance document, when finalized, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens classified under § 866.3372 (21 CFR 866.3372). If classified as a class II device under § 866.3372, nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens will need to comply with the requirement for special controls; manufacturers will need to address the issues requiring special controls as identified in the guidance document or by some other means that provides equivalent assurances of safety and effectiveness.

#### III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* To receive ''Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to (301) 847–8149 to receive a hard copy. Please use the document number 1788 to identify the guidance you are requesting.

#### IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 56.115 have been approved under OMB control number 0910–0130; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485.

#### V. 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.

Dated: March 14, 2012.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2012–6519 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 866**

**[Docket No. FDA–2012–N–0159]**

## Microbiology Devices; Reclassification of Nucleic Acid-Based Systems for *Mycobacterium tuberculosis* Complex

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to reclassify nucleic acid-based in vitro diagnostic devices for the detection of *Mycobacterium tuberculosis* complex in respiratory specimens from class III (premarket approval) into class II (special controls). These devices are intended to be used as an aid in the diagnosis of pulmonary tuberculosis.

**DATES:** Submit either electronic or written comments by June 18, 2012. See section IX of this document for the proposed effective date of any final rule that may publish based on this proposal.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA–2012–N–0159, by any of the following methods:

*Electronic Submissions*

Submit electronic comments in the following way:

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

*Written Submissions*

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier (for paper or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the Agency name and Docket No. FDA–2012–N–0159 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Janice A. Washington, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5554, Silver Spring, MD 20993–0002, 301–796–6207.

**SUPPLEMENTARY INFORMATION:**

### I. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), and the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under the FD&C Act, FDA clears or approves the three classes of medical devices for commercial distribution in the United States through three regulatory processes: Premarket approval (PMA), product development protocol, and premarket notification (a premarket notification is generally referred to as a ''510(k)'' after the section of the FD&C Act where the requirement is found). The purpose of a premarket notification is to demonstrate that the new device is substantially equivalent to a legally-marketed predicate device. Under section 513(i) of the FD&C Act, a device is substantially equivalent if it has the same intended use and technological characteristics as a predicate device, or has different technological characteristics but data demonstrate that the new device is as safe and effective as the predicate device and does not raise different issues of safety or effectiveness.

FDA determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations. Section 510(k) of the FD&C Act and the implementing regulation part 807, subpart E, require a person who intends to market a medical device to submit a premarket notification submission to FDA before proposing to begin the introduction, or delivery for introduction into interstate commerce, for commercial distribution of a device intended for human use.

In accordance with section 513(f)(1) of the FD&C Act, devices that were not in commercial distribution before May 28, 1976, the date of enactment of the 1976 amendments, generally referred to as postamendment devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless the device is classified or reclassified into class I or class II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act and part 807 of FDA's regulations.

Devices of a new type that FDA has not previously classified based on risk are ''automatically'' or ''statutorily'' classified into class III by operation of section 513(f)(1) of the FD&C Act, regardless of the level of risk they pose. This is because, by definition, a new type of device would not be within a type that was on the market before the 1976 Medical Device Amendments or that has since been classified into class I or class II. Congress enacted section 513(f)(2) of the FD&C Act as part of FDAMA. The process created by this provision, which is referred to in FDAMA as the Evaluation of Automatic Class III Designation, will be referred to as the ''de novo process''. Congress included this section to limit unnecessary expenditure of FDA and industry resources that could occur if lower risk devices were subject to premarket approval under section 515 of the FD&C Act (21 U.S.C. 360e).

Reclassification of classified postamendment devices is governed by section 513(f)(3) of the FD&C Act. This section provides that FDA may initiate the reclassification of a device classified into class III based under section 513(e) of the FD&C Act. FDA's regulations in § 860.130 (21 CFR 860.130) set forth the procedures for the filing and review of a petition for reclassification of such class III devices. In order to change the

classification of the device, it is necessary that the proposed new class have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

**II. Regulatory Background of the Device**

Nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens is a postamendment device classified into class III under section 513(f)(1) of the FD&C Act in 1995. Consistent with the FD&C Act and FDA's regulations in § 860.130(a), FDA believes that these devices should be reclassified from class III into class II because there is sufficient information from FDA's accumulated experience with these devices to establish special controls that can provide reasonable assurance of the device's safety and effectiveness.

**III. Identification**

Nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens are qualitative nucleic acid-based in vitro diagnostic devices intended to detect *M. tuberculosis* complex nucleic acids extracted from human respiratory specimens. These devices are non-multiplexed and intended to be used as an aid in the diagnosis of pulmonary tuberculosis when used in conjunction with clinical and other laboratory findings. These devices do not include devices intended to detect the presence of organism mutations associated with drug resistance. Respiratory specimens may include sputum (induced or expectorated), bronchial specimens (e.g., bronchoalveolar lavage or bronchial aspirate), or tracheal aspirates.

**IV. Background for Reclassification Decision**

At an FDA/Centers for Disease Control (CDC)/National Institute of Allergy and Infectious Diseases (NIAID) public workshop entitled ''Advancing the Development of Diagnostic Tests and Biomarkers for Tuberculosis,'' held in Silver Spring, MD, on June 7 and 8, 2010 (Ref. 1), the class III designation for nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens was raised as a barrier to advancing *M. tuberculosis* diagnostics. Based on discussion at the public workshop, FDA agreed to consider this issue further and subsequently convened a meeting of the Microbiology Devices Panel of the Medical Devices Advisory Committee (Microbiology Devices Panel) on June 29, 2011 (Ref. 2). Although not a formal reclassification meeting, panel members were asked to discuss if sufficient risk mitigation was possible for FDA to initiate the reclassification process from class III to class II devices for this intended use through the drafting of a special controls guidance. The panel was not asked to vote on whether actual reclassification should occur or to assess whether any previously approved device or specific device currently under development warranted reclassification.

All panel members expressed the opinion that sufficient data and information exists such that the risks of false positive and false negative results can be mitigated to allow a special controls guidance to be created that would support reclassification from class III to class II for nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens. All outside speakers at the open public hearing session during the meeting also spoke in favor of reclassification.

**V. Classification Recommendation**

FDA is proposing that nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens be reclassified from class III to class II. FDA believes that class II with special controls (guidance document and limitations on the distribution) would provide reasonable assurance of the safety and effectiveness of the device. Section 510(m) of the FD&C Act provides that a class II device may be exempt from the premarket notification requirements under section 510(k), if the Agency determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this device, FDA believes that premarket notification is necessary to provide reasonable assurance of safety and effectiveness and, therefore, does not intend to exempt the device from the premarket notification requirements.

**VI. Risks to Health**

After considering the information discussed by the Microbiology Devices Panel during the June 29, 2011, meeting, the published literature, and the Medical Device Reporting system reports, FDA believes the following risks are associated with nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens: (1) False positive test results may lead to incorrect treatment of the individual with possible adverse effects. The patient may be subjected to unnecessary isolation and/or other human contact limitations. Unnecessary contact investigations may also occur; (2) False negative test results could result in disease progression, and the risk of transmitting disease to others; and (3) Biosafety risks to healthcare workers handling specimens and control materials with the possibility of transmission of tuberculosis infection to healthcare workers.

**VII. Summary of the Reasons for Reclassification**

FDA, consistent with the opinions expressed by the Microbiology Devices Panel of the Medical Devices Advisory Committee, believes that the establishment of special controls, in addition to general controls, provides reasonable assurance of the safety and effectiveness of nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens.

1. The safety and effectiveness of nucleic acid-based systems for *M. tuberculosis* complex have become well-established since approval of the first device for this use in 1995.

2. The risk of false positive test results can be mitigated by specifying minimum performance standards in the special controls guidance and including information regarding patient populations appropriate for testing in the device labeling. Additional risk mitigation strategies include the indication for use that the device be used as an aid to the diagnosis of pulmonary tuberculosis in conjunction with other clinical and laboratory findings. The device also should be accurately described and have labeling that addresses issues specific to these types of devices.

3. The risk of false negative test results can be mitigated by specifying minimum performance standards for test sensitivity in the special controls guidance and ensuring that different patient populations are included in clinical trials. Additional risk mitigation strategies include the indication for use that the device be used as an aid to the diagnosis of pulmonary tuberculosis in conjunction with other clinical and laboratory findings. The device also should be accurately described and have appropriate labeling that addresses issues specific to these types of devices.

4. Biosafety risks to healthcare workers handling specimens and control materials with the possibility of transmission of tuberculosis infection to healthcare workers could be addressed similarly to existing devices of this type that we have already approved. It is

believed there are no additional biosafety risks introduced by reclassification from class III to class II. The need for appropriate biosafety measures can be addressed in labeling recommendations that are included in the special controls guidance and by adherence to recognized laboratory biosafety procedures.

Based on FDA's review of published literature, the information presented by outside speakers invited to the Microbiology Devices Panel meeting, and the opinions of panel members expressed at that meeting, FDA believes that there is a reasonable basis to determine that nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens can provide the significant benefit of rapid detection of infection in patients with suspected tuberculosis as compared to traditional means of diagnosis. For patients with acid-fast smear negative tuberculosis, nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens are currently the only laboratory tests available for rapid detection of active pulmonary tuberculosis. Rapid identification of patients with active tuberculosis may have significant benefits to the infected patient by earlier diagnosis and management as well as potentially significant effects on the public health by limiting disease spread.

Nucleic acid-based in vitro diagnostic devices for the detection of *M. tuberculosis* complex in respiratory specimens have been approved for marketing by FDA for over 15 years. There is substantial scientific and medical information available regarding the nature, complexity, and problems associated with these devices. Revised public health recommendations for use, published by CDC on January 16, 2009, recommended the use of nucleic acid amplification testing in conjunction with acid-fast microscopy and culture and specifically states that ''Nucleic acid amplification testing should be performed on at least one respiratory specimen from each patient with signs and symptoms of pulmonary [tuberculosis] for whom a diagnosis of [tuberculosis] is being considered but has not yet been established, and for whom the test result would alter case management or [tuberculosis] control activities'' (Ref. 3).

## VIII. Special Controls

FDA believes that, in addition to general controls, the proposed special controls discussed in this document are adequate to address the risks to health.

FDA believes that the draft guidance document entitled ''Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens,'' will address the risks previously identified in this document and provide a reasonable assurance of safety and effectiveness of the device. The class II special controls guidance document provides information on how to meet premarket (510(k)) submission requirements for the device in sections that discuss analytical performance studies, performance studies using clinical specimens, and labeling. FDA believes that the class II special controls guidance document, which incorporates analytical studies, performance standards, and labeling statements and recommendations, minimizes risks to health and provides reasonable assurance of device safety and effectiveness.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of this class II special controls guidance document that the Agency intends to use for this device.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES

| Identified risks | Recommended mitigation measures |
|---|---|
| False positive test results may lead to incorrect treatment of the individual with possible adverse effects. The patient may be subjected to unnecessary isolation and/or other human contact limitations. Unnecessary contact investigations may also occur. | Device Description<br>Performance Studies<br>Labeling. |
| False negative test results could result in disease progression and the risk of transmitting disease to others. | Device Description<br>Performance Studies<br>Labeling. |
| Biosafety risks to healthcare workers handling specimens and control materials with the possibility of transmission of tuberculosis infection to healthcare workers. | Labeling. |

## IX. Proposed Effective Date

FDA proposes that any final rule based on this proposal become effective 30 days after its date of publication in the **Federal Register.**

## X. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this proposed reclassification action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## XI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this proposed rule is not a significant regulatory action as defined by the Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule would create no new burdens, the Agency proposes to certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $136

million, using the most current (2010) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

Our estimate of benefits annualized over 20 years is $9.4 million at a 3-percent discount rate and $7.4 million at a 7-percent discount rate. The change in pre and postmarketing requirements between a 510(k) and a PMA lead to benefits in the form of reduced submission costs, review-related activities, and inspections. Another unquantifiable benefit from the rule is that a decrease in entry could lead to further product innovation. FDA is unable to quantify the costs that could arise if there is a change in risk which could lead to adverse events, recalls, warning letters, or unlisted letters.

The full discussion of economic impacts (Ref. 4) is available in docket FDA–2012–N–0159 and at *http://www.regulations.gov.*

## XII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive order requires Agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Federal law includes an express preemption provision that preempts certain state requirements ''different from or in addition to'' certain Federal requirements applicable to devices. (See section 521 of the FD&C Act (21 U.S.C. 360k); *Medtronic, Inc.* v. *Lohr,* 518 U.S. 470 (1996); and *Riegel* v. *Medtronic, Inc.* 128 S. Ct. 999 (2008)). If this proposed rule is made final, the special controls established by the final rule would create ''requirements'' for specific medical devices under 21 U.S.C. 360(k), even though product sponsors have some flexibility in how they meet those requirements (Cf. *Papike* v. *Tambrands, Inc.,* 107 F.3d 737, 740–742 (9th Cir. 1997)).

## XIII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no new collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) is not required.

This proposed rule designates a draft guidance document as a special control. FDA also tentatively concludes that the draft special control guidance document does not contain new information collection provisions that are subject to review and clearance by OMB under the PRA. Elsewhere in this issue of the **Federal Register,** FDA is publishing a notice announcing the availability of that draft guidance document entitled ''Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens,'' which contains an analysis of the paperwork burden for the draft guidance.

## XIV. 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.

## XV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**)

1. Transcript of the Tuberculosis Public Workshop, June 7, 2010, (Available at *http://www.fda.gov/downloads/ScienceResearch/SpecialTopics/CriticalPathInitiative/UpcomingEventsonCPI/UCM289182.doc,* accessed on January 25, 2012).

2. Transcript of FDA's Microbiology Devices Panel Meeting, June 29, 2011, (Available at *http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/MicrobiologyDevicesPanel/UCM269469.pdf.*)

3. ''Updated Guidelines for the Use of Nucleic Acid Amplification Tests in the Diagnosis of Tuberculosis,'' *Morbidity and Mortality Weekly Report* (MMWR), vol. 58(1), pp. 7–10, January 16, 2009, (Available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5801a3.htm,* accessed on July 26, 2011).

4. Full Disclosure Preliminary Regulatory Impact Analysis Initial Regulatory Flexibility Analysis Unfunded Mandates Reform Act Analysis.

## List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 866 be amended as follows:

## PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

1. The authority citation for part 866 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Add § 866.3372 to subpart D to read as follows:

### § 866.3372 Nucleic acid-based in vitro diagnostic devices for the detection of *Mycobacterium tuberculosis* complex in respiratory specimens.

(a) *Identification.* Nucleic acid-based in vitro diagnostic devices for the detection of *Mycobacterium tuberculosis* complex in respiratory specimens are qualitative nucleic acid-based in vitro diagnostic devices intended to detect *M. tuberculosis* complex nucleic acids extracted from human respiratory specimens. These devices are non-multiplexed and intended to be used as an aid in the diagnosis of pulmonary tuberculosis when used in conjunction with clinical and other laboratory findings. These devices do not include devices intended to detect the presence of organism mutations associated with drug resistance. Respiratory specimens may include sputum (induced or expectorated), bronchial specimens (*e.g.,* bronchoalveolar lavage or bronchial aspirate), or tracheal aspirates.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA document entitled ''Class II Special Controls Guidance Document: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens.'' For availability of the guidance document, see § 866.1(e).

Dated: March 13, 2012.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2012–6518 Filed 3–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

# Reader Aids

**Federal Register**

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**S. 1134/P.L. 112–100**
St. Croix River Crossing Project Authorization Act (Mar. 14, 2012; 126 Stat. 268)

**S. 1710/P.L. 112–101**
To designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse. (Mar. 14, 2012; 126 Stat. 270)

**Last List March 15, 2012**

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