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# Rules and Regulations

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

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

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 241

**[Regulation OO; Docket No. R–1430]**

**RIN 7100–AD 81**

## Supervised Securities Holding Company Registration

**AGENCY:** Board of Governors of the Federal Reserve System (''Board'').

**ACTION:** Final rule.

**SUMMARY:** The Board is adopting this final rule to implement section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'' or ''Act''), which permits nonbank companies that own at least one registered securities broker or dealer, and that are required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board and subject themselves to supervision by the Board. The final rule outlines the requirements that a securities holding company must satisfy to make an effective election, including filing the appropriate form with the responsible Reserve Bank, providing all additional required information, and satisfying the statutory waiting period of 45 days or such shorter period the Board determines appropriate.

**DATES:** The rule is effective July 20, 2012.

**FOR FURTHER INFORMATION CONTACT:** Amanda K. Allexon, Senior Counsel (202) 452–3818, or Bao Nguyen, Attorney, (202) 736–5599, Legal Division; or Michael J. Sexton, Assistant Director, (202) 452–3009, or Brendan Burke, Senior Supervisory Financial Analyst, (202) 452–2987, Division of Banking Supervision and Regulation; Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Users of Telecommunication Device for the Deaf (TTD) only, contact (202) 263–4869.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Section 618 of the Dodd-Frank Act permits a company that owns at least one registered securities broker or dealer (a ''nonbank securities company''), and that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board as a securities holding company and become subject to supervision and regulation by the Board.[1] A securities holding company that registers with the Board under section 618 is subject to the full examination, supervision, and enforcement regime applicable to a registered bank holding company, including capital requirements set by the Board (although the statute allows the Board to modify its capital rules to account for differences in activities and structure of securities holding companies and bank holding companies). The primary difference in regulatory frameworks between securities holding companies and bank holding companies is that the restrictions on nonbanking activities that apply to bank holding companies do not apply to securities holding companies.

Under section 618 of the Act, a securities holding company that elects to be subject to supervision by the Board must submit a registration form that includes all such information and documents the Board, by regulation, deems necessary or appropriate. The statute also specifies that registration as a supervised securities holding company becomes effective 45 days after the date the Board receives all required information, or within such shorter period as the Board, by rule or order, may determine.

Section 618 makes a registered securities holding company subject to all of the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (''BHC Act'') in the same manner as a bank holding company, other than the restrictions on nonbanking activities contained in section 4 of the BHC Act.[2] Consistent with the Dodd-Frank Act, the Board anticipates applying the same supervisory program, including examination procedures, reporting requirements, supervisory guidance, and capital standards, to supervised securities holding companies that the Board currently applies to bank holding companies. However, the Board may, based on experience gained during the supervision of supervised securities holding companies, modify these requirements as appropriate and consistent with section 618.

### II. Notice of Proposed Rulemaking: Summary of Comments

On September 2, 2011, the Board invited public comment on a proposed rule implementing the registration requirements and procedures for securities holding companies pursuant to section 618 of the Act.[3] The Board received three comments, none of which addressed any substantive aspect of the proposed rule. One commenter expressed the view that firms should not elect to be supervised by the Federal Reserve because of a ''lack of leadership at the FED Districts.'' Another commenter included the phrase ''supervised securities holding companies registration'' in the subject line of the comment letter but provided no comment. The third commenter mistakenly believed that section 618 of the Dodd-Frank Act and the Board's proposed Regulation OO apply to foreign companies that own national banks in the United States. This commenter argued that such foreign companies should be subject to supervision by the Board as supervised securities holding companies if they wish to operate in the United States by owning national banks. The Board is finalizing the rule with only technical modifications.

### III. Description of Final Rule

The final rule permits securities holding companies to elect to become supervised securities holding companies by registering with the Board. The final rule outlines the requirements that a securities holding company must satisfy to make an effective registration, including filing the appropriate form with the responsible Reserve Bank, providing all additional information requested by the Board, and satisfying the statutory waiting period of 45 days or such

[1] 12 U.S.C. 1850a.

[2] 12 U.S.C. 1850a(d)(1) and (e)(2).

[3] 12 U.S.C. 1850a.

shorter period the Board determines appropriate.

Section 241.1 of the final rule outlines the authority under which the Board is issuing the rule. Section 241.2 of the final rule changes the proposed definition of the term ''securities holding company'' in order to more closely reflect the statutory language. The revised definition contains additional language, which makes clear that to become a securities holding company, a company must, among other things, be ''required by a foreign regulator or a provision of foreign law to be subject to comprehensive consolidated supervision.'' Under the Dodd-Frank Act and final rule, a company that is currently subject to comprehensive consolidated supervision by a foreign regulator, a nonbank financial company supervised by the Board, a bank holding company, a savings and loan holding company, an insured bank, a savings association, or a foreign banking organization with U.S. banking operations would not qualify for registration as a supervised securities holding company. Under the final rule, terms such as ''affiliate,'' ''bank,'' ''bank holding company,'' ''control,'' and ''subsidiary'' are defined to have the same meaning as in section 225.2 of the Board's Regulation Y.

Section 241.3 of the final rule requires a securities holding company that elects to register to become a supervised securities holding company to file the proper form with the responsible Reserve Bank. The Board is creating a new form for this purpose. The form, which is similar to the Board's current form Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company (FR Y–3F; OMB No. 7100–0119), used by a company registering to become a bank holding company, includes a number of questions relating to the organizational structure of the securities holding company, its capital structure, and its financial condition. Specifically, the form requires a securities holding company electing to be supervised to submit:

1. An organization chart for the securities holding company showing all subsidiaries.

2. The name, asset size, general activities, place of incorporation, and ownership share held by the securities holding company for each of the securities holding company's direct and indirect subsidiaries that comprise 1 percent or more of the securities holding company's worldwide consolidated assets.

3. A list of all persons (natural as well as legal) in the upstream chain of ownership of the securities holding company who, directly or indirectly, own 5 percent or more of the voting shares of the securities holding company. In addition, the Board would request information concerning any voting agreements or other mechanisms that exist among shareholders for the exercise of control over the securities holding company.

4. For the senior officers and directors with decision-making authority for the securities holding company, the biographical information requested in the Interagency Biographical and Financial Report FR 2081c (the Financial Report need not be provided).

5. Copies of the most recent quarterly and annual reports prepared for shareholders, if any, for the securities holding company and certain subsidiaries.

6. Income statements, balance sheets, and audited GAAP statements, as well as any other financial statements submitted to the securities holding company's current consolidated supervisor, if any, each on a parent-only and consolidated basis, showing separately each principal source of revenue and expense, through the end of the most recent fiscal quarter and for the past two (2) fiscal years.

7. A description of the methods used by the securities holding company to monitor and control its operations, including those of its domestic and foreign subsidiaries and offices (e.g., through internal reports and internal audits).

8. A description of the bank regulatory system that exists in the home country of any of the securities holding company's foreign bank subsidiaries. The description also should include a discussion of each of the following:

a. The scope and frequency of on-site examinations by the home country supervisor;

b. Off-site monitoring by the home country supervisor;

c. The role of external auditors;

d. Transactions with affiliates;

e. Other applicable prudential requirements;

f. Remedial authority of the home country supervisor;

g. Prior approval requirements; and,

h. Any applicable regulatory capital framework.

9. A description of any other regulatory capital framework to which the securities holding company is subject.

The final rule further provides that the Board may at any time request additional information that it believes is necessary to complete the registration.

Under the rule, the registration is considered filed when all information required by the Board is received. Section 241.3 of the final rule also states that a registration filed by a securities holding company becomes effective and supervision by the Board begins on the 45th calendar day after the date that a complete filing is received. Under the final rule, the Board also reserves the right to shorten the 45-day waiting period and begin consolidated supervision at such earlier date as the Board specifies to the securities holding company in writing.

The final rule provides that, upon an effective registration, a supervised securities holding company would be supervised and regulated as if it were a bank holding company, and that the nonbanking restrictions contained in section 4 of the BHC Act will not apply to a supervised securities holding company. This treatment will generally mean that supervised securities holding companies will, among other things, be required to submit the same reports and be subject to the same examination procedures, supervisory guidance, and capital standards that currently apply to bank holding companies. The final rule provides the Board with flexibility to adjust these requirements as appropriate to ensure that securities holding companies operate in a manner that is consistent with safety and soundness and that addresses the risks they pose to financial stability.

## IV. Administrative Law Matters

### *A. Paperwork Reduction Act Analysis*

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for the existing information collections are provided below. The OMB control number will be assigned for the new information collection related to registrations described below. The Board reviewed the final rule under the authority delegated to the Board by OMB.

*Title of Existing Information Collections:*

- The Annual Report of Bank Holding Companies (FR Y–6),
- The Report of Foreign Banking Organizations (FR Y–7),
- The Consolidated Financial Statements for Bank Holding Companies (FR Y–9C),

- The Parent Company Only Financial Statements for Large Bank Holding Companies (FR Y–9LP),
- The Parent Company Only Financial Statements for Small Bank Holding Companies (FR Y–9SP),
- The Financial Statements for Employee Stock Ownership Plan Bank Holding Companies (FR Y–9ES),
- The Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y–9CS),
- The Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies (FR Y–11 and FR Y–11S),
- The Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314 and FR 2314S),
- The Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (FR Y–8),
- The Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12) and the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y–12A), and
- The Capital and Asset Report of Foreign Banking Organizations (FR Y–7Q), and the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y–7N and FR Y–7NS).

*Frequency of Response:* Annually, semi-annually, quarterly, event-generated.

*Affected Public:* Nonbank companies.

*Abstract:* The information collection reporting requirements are found in sections 241.3(a)(1) and 241.3(b)(3)(i) of the final rule. These requirements implement regulations related to section 618 of the Dodd-Frank Act, which, as discussed above, permit securities holding companies to register with, and subject themselves to supervision by, the Board. As previously noted, a supervised securities holding company is subject to the provisions of the BHC Act in the same manner as a bank holding company, other than the restrictions on nonbanking activities contained in section 4 of the BHC Act.

Section 241.3(a)(1) requires securities holding companies that elect to register to become supervised securities holding companies to file a registration form with the responsible Reserve Bank. The registration form asks for information on: the organization chart (including all subsidiaries), shareholders, senior officers and directors, methods used to monitor and control its operations, and foreign bank subsidiaries and the bank regulatory system in which these foreign bank subsidiaries operate. Section 241.3(b)(3)(i) requires supervised securities holding companies to be subject to supervision and regulation by the Board as if such companies were bank holding companies. Accordingly, the Board will require supervised securities holding companies to file the same reports as bank holding companies as follows: FR Y–6 and FR Y–7 (OMB No. 7100–0297); FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS (OMB No. 7100–0128); FR Y–11 and FR Y–11S (OMB No. 7100–0244); FR 2314 and FR 2314S (OMB No. 7100–0073); FR Y–8 (OMB No. 7100–0126); FR Y–12 and FR Y–12A (OMB No. 7100–0300); FR Y–7Q, FR Y–7N and FR Y–7NS (OMB No. 7100–0125).

Estimated Burden

The estimated burden per filing for the registration form in section 241.3(a)(1) is eight hours (one business day). The Board estimates that approximately five securities holding companies would file a request to become a supervised securities holding company. Therefore, the total annual burden for the registration form is estimated to be 40 hours. Effective upon registration, and except as otherwise provided by order of the Board, a supervised securities holding company shall file the existing bank holding company reporting forms listed above on the calendar quarter-end under section 241.3(b)(3)(i). The hourly burden estimates associated with each of these reporting forms is not expected to change materially as the information to be collected is substantively similar to that which is currently being collected from bank holding companies. Presently, the Board is aware of only one company that would register as a supervised securities holding company.

For additional information on the current burden associated with any of the existing information collections, please see OMB's public Web site at: *http://www.reginfo.gov/public/do/PRAMain.* For copies of the current reporting forms, please see the Federal Reserve's public Web site at: *http://www.federalreserve.gov/reportforms/default.cfm.*

The Board has a continuing interest in the public's opinions of collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–NEW), Washington, DC 20503.

*B. Regulatory Flexibility Act Analysis*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (''RFA'') requires each federal agency to prepare a final regulatory flexibility analysis in connection with the promulgation of a final rule, or certify that the final rule will not have a significant economic impact on a substantial number of small entities.[4] The Board believes that the final rule will not have a significant economic impact on a substantial number of small entities, but nonetheless is conducting the Regulatory Flexibility Act Analysis for this final rule.

In accordance with section 618 of the Dodd-Frank Act, the Board is adopting Regulation OO (12 CFR part 241 *et seq.*) to establish a process for a securities holding company to elect to be supervised by the Board. The final rule would establish the requirements and procedures for registering with the Board in order to become a supervised securities holding company. As noted above, a supervised securities holding company would be supervised and regulated as if it were a bank holding company and would be required to submit the same reports that currently apply to bank holding companies. The reasons and justification for the final rule are described in the Supplementary Information. The Board does not believe that the final rule duplicates, overlaps, or conflicts with any other Federal rules.

Under regulations issued by the Small Business Administration (''SBA''), a ''small entity'' includes those firms within the ''Finance and Insurance'' sector with asset sizes that vary from $7 million or less in assets to $175 million or less in assets.[5] The Board believes that the Finance and Insurance sector constitutes a reasonable universe of firms for these purposes because such firms generally engage in activities that are financial in nature. Consequently, securities holding companies with assets sizes of $175 million or less are small entities for purposes of the RFA.

As discussed in the **SUPPLEMENTARY INFORMATION**, the final rule applies to any securities holding company that elects to be supervised by the Board regardless of such a company's asset size. However, the statute applies only to registered securities broker and dealers that operate on an international basis and are required by a foreign jurisdiction to be supervised on a comprehensive consolidated basis. To the Board's knowledge, no registered

[4] See 5 U.S.C. 603, 604 and 605.

[5] 13 CFR 121.201.

securities broker or dealer with total assets under $175 million meets this requirement. At this time, only one company, which has assets well in excess of $175 million, has expressed interest in electing to become a supervised securities holding company. Moreover, only one company ever elected to be supervised under the investment bank holding company framework administered by the Securities and Exchange Commission, which is the statutory framework replaced by this final rule.

In light of the foregoing, the Board does not believe that the final rule would have a significant economic impact on a substantial number of small entities supervised by the Board.

*C. Use of Plain Language*

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board invited comment on whether the proposed rule was written plainly and clearly, or whether there were ways the Board could make the rule easier to understand. The Board received no comment on these matters and believes that the final rule is written plainly and clearly.

**List of Subjects in 12 CFR Part 241**

Administrative practice and procedure, Holding companies, Securities, Federal Reserve System, Brokers and dealers, Foreign law, Reporting and recordkeeping requirements.

**Authority and Issuance**

For the reasons set forth in the Supplementary Information, the Board of Governors of the Federal Reserve System adds new Part 241 to Chapter II of Title 12 as follows:

**12 CFR Chapter II**

■ 1. Add part 241 to read as follows:

## PART 241—SECURITIES HOLDING COMPANIES (REGULATION OO)

Sec.
241.1 Authority and purpose.
241.2 Definitions.
241.3 Registration as a supervised securities holding company.

**Authority:** 12 U.S.C. 1850a.

### § 241.1 Authority and purpose.

(a) *Authority.* This part is issued by the Board pursuant to section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1850a).

(b) *Purpose.* This part establishes the procedures by which a securities holding company may elect to register to be supervised by the Board.

### § 241.2 Definitions.

Except as defined below, terms used in this part have the same meaning given them in 12 CFR 225.2.

(a) *Securities holding company.* (1) A securities holding company means—

(i) Any company that directly or indirectly owns or controls, is controlled by, or is under common control with, one or more brokers or dealers registered with the Securities and Exchange Commission; and

(ii) Is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision.

(2) A securities holding company does not include a company that is—

(i) A nonbank financial company supervised by the Board pursuant to Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 *et seq.*);

(ii) An insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) or a savings association;

(iii) An affiliate of an insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) or an affiliate of a savings association;

(iv) A foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a));

(v) A foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*); or

(vi) Currently subject to comprehensive consolidated supervision by a foreign regulator.

(b) *Supervised securities holding company* means a securities holding company that is supervised by the Board pursuant to this part.

### § 241.3 Registration as a supervised securities holding company.

(a) *Registration.*

(1) *Filing Requirement.* A securities holding company may elect to register to become a supervised securities holding company by filing the appropriate form with the responsible Reserve Bank. The responsible Reserve Bank is determined by the Director of Banking Supervision and Regulation at the Board, or the Director's delegee.

(2) *Request for additional information.* The Board may, at any time, request additional information that it believes is necessary to complete the registration.

(3) *Complete filing.* A registration by a securities holding company is considered to be filed on the date that all information required on the appropriate form is received.

(b) *Effective date of registration.*

(1) *In general.* A registration filed by a securities holding company under paragraph (a) of this section is effective on the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank.

(2) *Earlier notification that a registration is effective.* The Board may notify a securities holding company that its registration to become a supervised securities holding company is effective prior to the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank. Such a notification must be in writing.

(3) *Supervision and regulation of securities holding companies.* (i) Upon an effective registration and except as otherwise provided by order of the Board, a supervised securities holding company shall be treated, and shall be subject to supervision and regulation by the Board, as if it were a bank holding company, or as otherwise appropriate to protect the safety and soundness of the supervised securities holding company and address the risks posed by such company to financial stability.

(ii) The provisions of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) do not apply to a supervised securities holding company.

By order of the Board of Governors of the Federal Reserve System, May 29, 2012.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 2012–13311 Filed 6–1–12; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0101; Directorate Identifier 2010–SW–042–AD; Amendment 39–17046; AD 2012–09–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter Deutschland GMBH Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Eurocopter Deutschland GMBH (ECD) Model MBB–BK 117 C–1 and C–2 helicopters. This AD requires installing a placard that corresponds to the maximum permissible flight altitude, amending the Rotorcraft Flight Manual (RFM) to revise the maximum permissible operating altitude, and inserting revised performance charts into the RFM. This AD also requires a repetitive maintenance ''MAX N1 CHECK'' to determine the appropriate maximum altitudes. This AD also requires, if the engine or a Fuel Control Unit (FCU) or module 2 or 3 is replaced, repeating the maintenance ''MAX N1 CHECK.'' Finally, this AD specifies that modifying both engines would provide terminating action for the AD requirements. This AD was prompted by the failure of a ''few'' engines to reach the specified one-engine-inoperative (OEI) rating at altitudes above 10,000 feet. The actions of this AD are intended to prevent flights at altitudes where the full OEI engine power cannot be reached and subsequent loss of control of the helicopter if an OEI operation is required.

**DATES:** This AD is effective July 9, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of July 9, 2012.

**ADDRESSES:** For the Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005; telephone (800) 232–0323; fax (972) 641–3710; or at *http://www.eurocopter.com*. For the Turbomeca Groupe SAFRAN service information contact SAFRAN Turbomeca, 2709 N. Forum Drive, Grand Prairie, Texas 75052; telephone (800) 662–6322; or at *http://www.turbomeca-usa.com*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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

**FOR FURTHER INFORMATION CONTACT:** Ed Cuevas, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *ed.cuevas@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

## Discussion

On February 10, 2012, at 77 FR 7005, the **Federal Register** published our Notice of Proposed Rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to ECD Model MBB–BK 117 C–1 and C–2 helicopters with a Turbomeca Arriel 1E2 engine installed, which has an FCU that has not been modified with Turbomeca Modification TU 358. That NPRM proposed to require installing a placard that corresponds to the maximum permissible flight altitude, amending the RFM to revise the maximum permissible operating altitude for both the MBB–BK 117 C–1 and C–2 helicopters, and inserting revised performance charts into the RFM for the C–1 model. That NPRM also proposed to require maintenance ''MAX N1 CHECKs'' to determine the modified maximum operational altitudes. Additionally, that NPRM proposed to require, if the engine or an FCU or module 2 or 3 is replaced, repeating the maintenance ''MAX N1 CHECK.'' Finally, that NPRM proposal specified that modifying both engines with Turbomeca Modification TU 358 would be terminating action for the requirements of the NPRM; and after that modification of both engines, you would be permitted to remove the placards and flight manual revisions required by the NPRM. The proposed requirements were intended to prevent flights at altitudes where the full OEI engine power cannot be reached and subsequent loss of control of the helicopter if an OEI operation is required.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2008–0061, dated March 27, 2008, to correct an unsafe condition for ECD Model MBB–BK 117 C–1 and C–2 helicopters. The EASA states that during testing at maximum certification altitude, a few helicopters could not reach the specified OEI power threshold. The cause was identified as an engine acceleration limitation due to a lower delivered fuel flow than the engine fuel flow demand needed to achieve the OEI rating at high altitude. They state that this condition could occur at altitudes exceeding 10,000 feet depending on the engine and FCU characteristics.

## Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

## FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, the EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by the EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for minor editorial changes. These minor editorial changes are consistent with the intent of the proposals in the NPRM and will not increase the economic burden on any operator nor increase the scope of the AD.

## Differences Between This AD and the EASA AD

We do not reference the effective date stated in the EASA AD because it has passed. We have modified the initial placard wording to make it clear that before performing the topping check, the ''operating altitude'' for takeoff, landing, and hovering is a pressure altitude (PA) of 10,000 feet, but flight up to a maximum 13,000 feet is permitted as long as the helicopter stays at an airspeed above effective translational lift. After the topping check is performed, the ''operating altitude'' limitation refers to all modes of flight.

## Related Service Information

Eurocopter has issued Alert Service Bulletin (ASB) No. ASB–MBB–BK117–60–121, Revision 4, (ASB121) for Model MBB–BK 117 C–1 helicopters and ASB No. MBB BK117 C–2–71A–003, Revision 3 (ASB003), for Model MBB–BK 117 C–2 helicopters. Both ASBs are dated December 11, 2007, and apply to Turbomeca Arriel 1E2 engines. Both ASBs specify a ''MAX N1 CHECK'' for helicopters with FCUs that have not been modified by Turbomeca modification TU 358, for takeoffs, landings, and hovering in-ground effect (IGE) or hovering out-of-ground effect

(OGE) higher than 10,000 feet or flight above 13,000 feet. The ASBs specify limiting the maximum permissible flight altitude if the OEI rating cannot be achieved. The ASBs also specify the measures are no longer necessary when you modify both engines (Modification TU 358). The EASA classified these ASBs as mandatory and issued AD No. 2008–0061, dated March 27, 2008, to ensure the continued airworthiness of these helicopters.

**Costs of Compliance**

We estimate that this AD will affect 108 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. It will take about 1 work-hour per helicopter to affix a placard and insert the RFM pages at an average labor rate of $85 per work-hour. We estimate 54 maintenance flight checks for higher altitude operators will be required at $1,000 each. There are no parts costs. Based on these figures, we estimate the total cost impact of this AD on U.S. operators to be $63,180.

**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 helicopters 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 to the extent that it justifies making a regulatory distinction; and

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2012–09–11 EUROCOPTER DEUTSCHLAND GMBH:** Amendment 39–17046; Docket No. FAA–2012–0101; Directorate Identifier 2010–SW–042–AD.

**(a) Applicability**

This AD applies to Eurocopter Deutschland GMBH Model MBB–BK 117 C–1 and C–2 helicopters with a Turbomeca Arriel 1E2 engine installed, which has a Fuel Control Unit (FCU) that has not been modified with Turbomeca Modification TU 358, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as failure of engines to reach the specified one-engine-inoperative (OEI) rating at altitudes above 10,000 feet. This condition could result in high altitude operations when full OEI engine power is not available and subsequent loss of control of the helicopter if an OEI operation is required.

**(c) Effective Date**

This AD becomes effective July 9, 2012.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time.

**(e) Required Actions**

(1) For Model MBB–BK117 *C–1* helicopters:

(i) Before any flight operation at or above a pressure altitude (PA) of 10,000 feet, unless accomplished previously:

(A) Affix a placard to the instrument panel in plain view of the pilot(s), which states: ''Maximum altitude for takeoff, landing, and hovering is 10,000 ft PA. Maximum operating altitude above effective translational lift is 13,000 ft PA,'' or comply with paragraph (e)(1)(iii) of this AD. The term ''hovering'' as used in this placard includes both in-ground effect (IGE) and out-of-ground effect (OGE) hovering.

(B) Revise the Altitude Limitations section of the Rotorcraft Flight Manual (RFM), in accordance with paragraph 2.9 on pages 9 and 10; paragraph B.2.1 on page 15; and paragraph C.2.3.2 on page 16 of Eurocopter Alert Service Bulletin No. ASB–MBB–BK117–60–121, Revision 4, dated December 11, 2007 (ASB121).

(C) Attach each revised page 11–1–7 (ASB121, page 11) through 11–1–10 (ASB121, page 14) to the unrevised same-numbered page in the Performance section of the RFM.

(ii) Within 50 hours time-in-service (TIS), unless accomplished previously:

(A) Revise the RFM as required by paragraphs (e)(1)(i)(B) and (e)(1)(i)(C) of this AD; and

(B) Affix the placard as required by paragraph (e)(1)(i)(A) of this AD or comply with paragraph (e)(1)(iii) of this AD.

(iii) At intervals not to exceed 600 hours TIS:

(A) Before operating between a *16,000 ft PA and 18,000 ft PA,* perform the ''MAX N1 CHECK'' by following the Accomplishment Instructions, paragraph 2.B.1.1., of ASB121. If the OEI rating is not reached, either affix a placard as required by paragraph (e)(1)(i)(A) or comply with paragraph (e)(1)(iii)(B) or (e)(1)(iii)(C) of this AD.

(B) Before operating between *13,000 ft PA and 16,000 ft PA,* perform the ''MAX N1 CHECK'' by following the Accomplishment Instructions, paragraph 2.B.1.4., of ASB121.

(*1*) If the OEI rating is reached, affix a placard to the instrument panel in plain view of the pilot(s), which states: ''Maximum operating altitude is 16,000 ft PA.''

(*2*) If the OEI rating is not reached, either affix a placard as required by paragraph (e)(1)(i)(A) of this AD or comply with paragraph (e)(1)(iii)(C) of this AD.

(C) Before operating between *10,000 ft PA and 13,000 ft PA,* perform the ''MAX N1 CHECK'' by following the Accomplishment Instructions, paragraph 2.B.1.7., of ASB121.

(*1*) If the OEI rating is reached, affix a placard to the instrument panel in plain view of the pilot(s), which states: ''Maximum operating altitude is 13,000 ft PA.''

(*2*) If the OEI rating is not reached, affix a placard as required by paragraph (e)(1)(i)(A) of this AD.

(2) For Model MBB–BK 117 *C–2* helicopters:

(i) Before any flight operation at or above a PA of 10,000 feet, unless accomplished previously:

(A) Affix a placard to the instrument panel in plain view of the pilot(s), which states: ''Maximum altitude for takeoff, landing, and hovering is 10,000 ft PA. Maximum operating

altitude above effective translational lift is 13,000 ft PA,'' or comply with paragraph (e)(2)(iii) of this AD. The term ''hovering'' as used in this placard includes both IGE and OGE hovering.

(B) Revise the Altitude Limitations section of the RFM in accordance with paragraph A.2.3. on page 10 and paragraph 2.8. on page 11 of Eurocopter Alert Service Bulletin No. MBB BK117 C–2–71A–003, Revision 3, dated December 11, 2007 (ASB003).

(ii) Within 50 hours TIS, unless accomplished previously:

(A) Revise the RFM as required by paragraph (e)(2)(i)(B) of this AD; and

(B) Affix a placard as required by paragraph (e)(2)(i)(A) of this AD or comply with paragraph (e)(2)(iii) of this AD.

(iii) At intervals not to exceed 600 hours TIS:

(A) Before operating between *16,000 ft PA and 18,000 ft PA,* perform the ''MAX N1 CHECK'' by following the Accomplishment Instructions, paragraph 3.A.(1) (on pages 4 and 5), of ASB003. If the OEI rating is not reached, either affix a placard as required by paragraph (e)(2)(i)(A) or comply with paragraph (e)(2)(iii)(B) or (e)(2)(iii)(C) of this AD.

(B) Before operating between *13,000 ft PA and 16,000 ft PA,* perform the ''MAX N1 CHECK'' by following the Accomplishment Instructions, paragraph 3.A.(1) (on pages 5 and 6) of ASB003.

(*1*) If the OEI rating is reached, affix a placard to the instrument panel in plain view of the pilot(s), which states: ''Maximum operating altitude is 16,000 ft PA.''

(*2*) If the OEI rating is not reached, either affix a placard as required by paragraph (e)(2)(i)(A) or comply with paragraph (e)(2)(iii)(C) of this AD.

(C) Before operating between *10,000 ft PA and 13,000 ft PA,* perform the ''MAX N1 CHECK'' by following the Accomplishment Instructions, paragraph 3.A.(1) (on page 7) of ASB003.

(*1*) If the OEI rating is reached, affix a placard to the instrument panel in plain view of the pilot(s), which states: ''Maximum operating altitude is 13,000 ft PA.''

(*2*) If the OEI rating is not reached, affix a placard as required by paragraph (e)(2)(i)(A) of this AD.

(3) If an engine, FCU, engine module 2, or engine module 3 is replaced, before any flight operation at or above a PA of 10,000 feet, comply with the requirements of paragraph (e)(1) of this AD for the Model MBB–BK 117 C–1 helicopter or paragraph (e)(2) of this AD for the Model MBB–BK 117 C–2 helicopter.

(4) Modifying both engines with Turbomeca Modification TU 358 in accordance with Turbomeca Groupe SAFRAN (Turbomeca) Service Bulletin No. 292 73 0358, dated October 2, 2007, is optional terminating action for the requirements of this AD. This AD does not require returning any parts to Turbomeca nor does it require that you perform the modification at a specific location. After modifying both engines, remove from the helicopter any placard required by this AD and remove from the RFM the revised altitude limitations and the revised performance pages required by this AD.

**(f) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Ed Cuevas, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *ed.cuevas@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (Germany) AD No. 2008–0061, dated March 27, 2008.

**(h) Subject**

Joint Aircraft Service Component (JASC) Code: 1100, Placards and Markings.

**(i) Material Incorporated by Reference**

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

(i) Eurocopter Alert Service Bulletin No. ASB–MBB–BK117–60–121, Revision 4, dated December 11, 2007; and

(ii) Eurocopter Alert Service Bulletin No. MBB BK117 C–2–71A–003, Revision 3, dated December 11, 2007.

(2) You must use the specified portions of Turbomeca Groupe SAFRAN Service Bulletin No. 292 73 0358, dated October 2, 2007 to do the optional terminating action in this AD. The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(3) For the Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005; telephone (800) 232–0323; fax (972) 641–3710; or at *http://www.eurocopter.com.* For the Turbomeca Groupe SAFRAN service information identified in this AD, contact SAFRAN Turbomeca, 2709 N. Forum Drive, Grand Prairie, Texas 75052; telephone (800) 662–6322; or at *http://www.turbomeca-usa.com.*

(4) You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*

Issued in Fort Worth, Texas, on May 2, 2012.

**Carlton N. Cochran,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2012–12672 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0324; Directorate Identifier 2012–CE–008–AD; Amendment 39–17060; AD 2012–10–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Burkhart GROB Luft- und Raumfahrt GmbH Powered Sailplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Burkhart GROB Luft- und Raumfahrt GmbH Models GROB G 109 and GROB G 109B powered sailplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as excessive corrosion on the nose plate in the vertical stabilizer, which could cause the vertical stabilizer nose plate to fail. We are issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective July 9, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 9, 2012.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at 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 service information identified in this AD, contact Grob Aircraft AG, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Germany; telephone: +49 (0) 8268 998139; fax: +49 (0) 8268 998200; email: *productsupport@grob-aircraft.com;* Internet: *http://www.grob-aircraft.eu/.* 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.

**FOR FURTHER INFORMATION CONTACT:** Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 23, 2012 (77 FR 16968). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Occurrences have been reported of finding heavily corroded nose plates, part number (P/N) 109–2160.01, in the vertical stabiliser of some Grob G 109 powered sailplanes.
>
> The investigation results concluded that the affected aeroplanes were based and operated near the seaside and therefore exposed to a salty environment, causing the excessive corrosion.
>
> This condition, if not detected and corrected, could lead to failure of the vertical stabilizer nose plate, which functions as a horizontal stabiliser fitting, to support limit loads and consequent loss of control of the aeroplane.
>
> For the reasons described above, this AD requires repetitive inspections and, depending on findings, replacement of the nose plate.

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

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 16968, March 23, 2012) or on the determination of the cost to the public.

## Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 16968, March 23, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 16968, March 23, 2012).

## Costs of Compliance

We estimate that this AD will affect 59 products of U.S. registry. We also estimate that it will take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $424 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $55,106, or $934 per product.

In addition, we estimate that any necessary follow-on actions will take about 12 work-hours and require parts costing $243, for a cost of $1,263 per product. We have no way of determining the number of products that may need these actions.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

## 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 the NPRM (77 FR 16968, March 23, 2012), 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.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

# PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

**2012–10–11 Burkhart GROB Luft- und Raumfahrt GmbH:** Amendment 39–17060; Docket No. FAA–2012–0324; Directorate Identifier 2012–CE–008–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective July 9, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Burkhart GROB Luft- und Raumfahrt GmbH Models GROB G 109 and GROB G 109B powered sailplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 55, Stabilizer.

**(e) Reason**

This 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 excessive corrosion on the nose plate in the vertical stabilizer. We are issuing this AD to detect and correct corrosion and flaking on the nose

plate, which could cause the vertical stabilizer nose plate to fail and result in loss of control of the sailplane.

**(f) Actions and Compliance**

Unless already done, do the following actions:

(1) Within 3 months after July 9, 2012 (the effective date of this AD):

(i) Inspect, from the top, the front and rear side of the nose plate, part number (P/N) 109–2160.01, in the vertical stabilizer for corrosion and flaking following Part A of the Accomplishment Instructions in Grob Aircraft Service Bulletin No. MSB817–58, dated November 24, 2011. Repetitively thereafter inspect at intervals not to exceed 12 months.

(ii) Install an access panel on the left side of the vertical stabilizer following Grob Aircraft Repair Instruction Doc. No. RI 817–010/1, issue date December 20, 2011, as specified in Grob Aircraft Service Bulletin No. MSB 817–060, dated November 24, 2011.

(iii) Through the access panel installed as required in paragraph (f)(1)(ii) of this AD, inspect, from below, the nose plate, P/N 109–2160.01, for corrosion and flaking following Part B of the Accomplishment Instructions in Grob Aircraft Service Bulletin No. MSB817–58, dated November 24, 2011. Repetitively thereafter inspect at intervals not to exceed 12 months.

(2) If any corrosion or flaking is found on the nose plate, P/N 109–2160.01, during any inspection required in paragraphs (f)(1)(i) or (f)(1)(iii) of this AD, replace P/N 109–2160.01 with a serviceable part. Do the replacement following Grob Aircraft Repair Instruction Doc. No. RI 817–009, issue date November 17, 2011, as specified in Grob Aircraft Service Bulletin No. MSB817–58, dated November 24, 2011. After replacement, continue with the repetitive inspections required in paragraphs (f)(1)(i) and (f)(1)(iii) of this AD.

**(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: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any sailplane 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 European Aviation Safety Agency (EASA) AD No. 2012–0027, dated February 14, 2012; Grob Aircraft Service Bulletin No. MSB817–58 and Grob Aircraft Service Bulletin No. MSB 817–060, both dated November 24, 2011; Grob Aircraft Repair Instruction Doc. No. RI 817–009, issue date November 17, 2011; and Grob Aircraft Repair Instruction Doc. No. RI 817–010/1, issue date December 20, 2011, for related information.

**(i) Material Incorporated by Reference**

(1)You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51 of the following service information on July 9, 2012:

(i) Grob Aircraft Service Bulletin No. MSB817–58, dated November 24, 2011;

(ii) Grob Aircraft Service Bulletin No. MSB 817–060, dated November 24, 2011;

(iii) Grob Aircraft Repair Instruction Doc. No. RI 817–009, issue date November 17, 2011; and

(iv) Grob Aircraft Repair Instruction Doc. No. RI 817–010/1, issue date December 20, 2011.

(2) For service information identified in this AD, contact Grob Aircraft AG, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Germany; telephone: +49 (0) 8268 998139; fax: +49 (0) 8268 998200; email: *productsupport@grob-aircraft.com;* Internet *http://www.grob-aircraft.eu/.*

(3) You may review copies of the 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.

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

Issued in Kansas City, Missouri, on May 16, 2012.

**Earl Lawrence,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–12409 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2011–1320; Directorate Identifier 2011–NM–208–AD; Amendment 39–17066; AD 2012–11–03]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 777 airplanes. This AD was prompted by four reports of retaining cross bolt hardware not fully engaged into the fuse pins of the forward trunnion lower housing of the main landing gear (MLG), which could result in an incorrect MLG emergency landing break-away sequence. This AD requires a detailed inspection of the fuse pin cross bolts and fuse pins of the left and right MLG forward trunnion lower housing to verify that the cross bolts are correctly installed and that there are no missing fuse pins, and replacement of the fuse pins if necessary. We are issuing this AD to prevent an incorrect emergency landing MLG break-away sequence, which could result in puncturing of the wing box and consequent fuel leaks and an airplane fire. Failure of the fuse pins could also result in a possible landing gear collapse causing a runway excursion during take-off or landing.

**DATES:** This AD is effective July 9, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 9, 2012.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; email: *me.boecom@boeing.com;* Internet: *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA,

Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket 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:** James Sutherland, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6533; fax: 425–917–6590; email: *James.Sutherland@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on December 15, 2011 (76 FR 77937). That NPRM proposed to require a detailed inspection of the fuse pin cross bolts and fuse pins of the forward trunnion lower housing of the left and right MLG to verify that the cross bolts are correctly installed and that there are no missing fuse pins, and replacing all fuse pins in the MLG forward trunnion upper and lower housing with new fuse pins if necessary.

**Comments**

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (76 FR 77937, December 15, 2011) and the FAA's response to each comment.

**Support for the NPRM (76 FR 77937, December 15, 2011)**

United Airlines stated it concurs with the proposed rule (76 FR 77937, December 15, 2011) to inspect for the correct installation of the cross bolts and the fuse pins to ensure a high level of safety for the 777 fleet.

Thomas Hayden Barnes stated that he supports efforts to ensure airline safety and the proposed rule (76 FR 77937, December 15, 2011).

**Request To Clarify Fuse Pin Replacement**

American Airlines (American) and FedEx requested clarification as to whether the NPRM (76 FR 77937, December 15, 2011) requires changing all fuse pins on both left and right MLG even if the discrepant condition is only found on one side of the airplane MLG.

We agree to clarify the fuse pin replacement by changing paragraph (g) of the final rule to read, in part: ''If any cross bolt of the MLG forward trunnion lower housing is not installed correctly, or if any fuse pin of the MLG forward trunnion lower housing is missing: Before further flight, replace all fuse pins in the MLG forward trunnion upper and lower housing on the side, or sides of the airplane, where the missing or incorrectly installed fuse pin/pins were discovered * * *.''

**Request To Use Maintenance Pits and Clarify Procedure**

American requested that the NPRM (76 FR 77937, December 15, 2011) permit the use of maintenance pits in lieu of jacking the airplane, as specified in Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011. American stated that it is acceptable to stabilize the airplane on jacks and lower maintenance pits until the wheels do not touch the surface, and accomplishes the same effect of unloading the airplane weight from the trunnion for the purposes of changing the fuse pins.

American also noted that the phrase ''until the wheels are just off the ground'' in Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011, might be construed to be a dimension without tolerance.

We agree that the use of lowered maintenance pits to unload the MLG does have the same effect as lifting. We also agree that the meaning of the phrase ''just off the ground'' is a dimension without tolerance. We have changed paragraph (g) of the final rule to specify that step 1 in Part 2 of paragraph 3.B. of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011, is not considered regulatory for the purposes of this AD.

**Request To Change Applicability**

Boeing and FedEx requested that the applicability of the NPRM (76 FR 77937, December 15, 2011) list only the airplanes specified in Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011. Boeing stated that airplanes not listed in this service information have been inspected during production to ensure they do not have the unsafe condition. FedEx stated that it currently flies 6 aircraft that are not listed in the NPRM, and is adding new aircraft to its fleet, none of which will be listed in the NPRM.

We agree. The intent of the AD is to ensure that inspections are done on airplanes on which Boeing was unable to confirm that the cross bolts are installed correctly and on which there are no missing fuse pins. We have changed paragraph (c) of the final rule to apply to the airplanes identified in Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011.

**Additional Change Made to This Final Rule**

We have removed Note 1 that followed paragraph (g) in the NPRM (76 FR 77937, December 15, 2011) from the final rule. That information is contained in Note 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011, and does not need to be included in the AD.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (76 FR 77937, December 15, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 77937, December 15, 2011).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

**Costs of Compliance**

We estimate that this AD affects 166 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Detailed Inspection | 3 work-hours × $85 per hour = $255 | $0 | $255 | $42,330 |

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

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replace fuse pins | 44 work-hours × $85 per hour = $3,740. | Between $15,216 and $52,620 | Between $18,956 and $56,360. |

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2012–11–03 The Boeing Company:** Amendment 39–17066; Docket No. FAA–2011–1320; Directorate Identifier 2011–NM–208–AD.

**(a) Effective Date**

This AD is effective July 9, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by four reports of retaining cross bolt hardware not fully engaged into the fuse pins of the forward trunnion lower housing of the main landing gear (MLG), which could result in an incorrect MLG emergency landing break-away sequence. We are issuing this AD to prevent an incorrect emergency landing MLG break-away sequence, which could result in puncturing of the wing box and consequent fuel leaks and an airplane fire. Failure of the fuse pins could also result in a possible landing gear collapse causing a runway excursion during take-off or landing.

**(f) Compliance**

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

**(g) Detailed Inspection and Replacement**

Within 1,125 days after the effective date of this AD, perform a detailed inspection of the fuse pin cross bolts and fuse pins of the left and right MLG forward trunnion lower housing to verify that the cross bolts are installed correctly and that there are no missing fuse pins, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011. If any cross bolt of the MLG forward trunnion lower housing is not installed correctly, or if any fuse pin of the MLG forward trunnion lower housing is missing: Before further flight, replace all fuse pins in the MLG forward trunnion upper and lower housing on the side, or sides, of the airplane where the missing or incorrectly installed fuse pin/pins were discovered, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011, except step 1 in Part 2 of paragraph 3.B of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011, is not considered regulatory for the purposes of this AD.

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

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(i) Related Information**

For more information about this AD, contact James Sutherland, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6533; fax: 425–917–6590; email: *James.Sutherland@faa.gov*.

**(j) Material Incorporated by Reference**

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

(i) Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; email: *me.boecom@boeing.com;* Internet: *https://www.myboeingfleet.com*.

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

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

Issued in Renton, Washington, on May 18, 2012.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–12910 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0109; Directorate Identifier 2010–NM–244–AD; Amendment 39–17067; AD 2012–11–04]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Inc. Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for certain Bombardier Inc. Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes. That AD currently requires repetitive inspections to detect cracking of the lower cap of the wing front and rear spars at wing station (WS) 51.00, and the wing lower skin. Additional actions, if cracking is found, include reworking the lower cap of the front or rear spar, inspecting for cracking, and repairing any cracking. The existing AD also requires reporting inspection results. This new AD requires extending the inspection area of the rear spar lower cap from WS 51.00 to WS 49.50 and modifying the ultrasonic inspection calibration procedure. This AD was prompted by reports of cracking found outside the inspection area. We are issuing this AD to detect and correct cracking of the lower caps of the wing front and rear spars, and lower wing skin, which could result in reduced structural integrity of the airplane.

**DATES:** This AD becomes effective July 9, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2012.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of October 6, 2005 (70 FR 52009, September 1, 2005).

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of March 4, 1998 (63 FR 7640, February 17, 1998).

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

**FOR FURTHER INFORMATION CONTACT:** George Duckett, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York 11590; telephone (516) 228–7325; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 9, 2012 (77 FR 6688), and proposed to supersede AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Cracks have been found in the rear spar of the left wing at Wing Station (WS) 51.00 on several aircraft in service. On some aircraft, the cracks propagated through the lower spar cap and fail-safe straps into the spar web and the lower wing skin. The cracks are not visible from outside the aircraft.
>
> Revision 2 of this [Transport Canada Civil Aviation] AD is issued as a result of cracks found outside the inspection area specified in Revision 1. This revision extends the inspection area of the rear spar lower cap from WS 51.00 to WS 49.50 and to modify the ultrasonic inspection calibration procedure.

Cracking of the lower caps of the wing front and rear spars, and lower wing skin, could result in reduced structural integrity of the airplane. You may obtain further information by examining the MCAI in the AD docket.

AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), specifies Model CL–215–6B11 (CL–415 Variant) airplanes in the applicability, but also specifies serial numbers 1001 though 1125. The serial numbers for Model CL–215–6B11 (CL–415 Variant) airplanes start at 2001. We have determined that Model CL–215–6B11 (CL–415 Variant) airplanes are not subject to the identified unsafe condition. Therefore, we have removed Model CL–215–6B11 (CL–415 Variant) airplanes from the applicability of this AD.

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 6688, February 9, 2012) or on the determination of the cost to the public.

## Explanation of Changes Made to This AD

We have revised certain headers throughout this AD and changed the new reporting contact information in paragraph (m) of this AD.

## Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 6688, February 9, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 6688, February 9, 2012).

## Costs of Compliance

We estimate that this AD will affect about 7 products of U.S. registry.

The actions that are required by AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), and retained in this AD take about 17 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the currently required actions is $1,445 per product.

We estimate that it will take about 6 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $3,570, or $510 per product.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 6688, February 9, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), and adding the following new AD:

**2012–11–04 Bombardier, Inc.:** Amendment 39–17067. Docket No. FAA–2012–0109; Directorate Identifier 2010–NM–244–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective July 9, 2012.

**(b) Affected ADs**

This AD supersedes AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005).

**(c) Applicability**

This AD applies to the Bombardier Inc. airplanes; certificated in any category; as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model CL–215–1A10 (Water Bomber) airplanes, serial numbers 1001 through 1125 inclusive.

(2) Model CL–215–6B11 (CL–215T Variant) airplanes, serial numbers 1056 through 1125 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Reason**

This AD was prompted by reports of cracking found outside the inspection area. We are issuing this AD to detect and correct cracking of the lower caps of the wing front and rear spars, and lower wing skin, which could result in reduced structural integrity of the airplane.

**(f) Compliance**

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

**(g) Retained Initial Inspection With New Service Information**

This paragraph restates the requirements of paragraph (f) of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), with new service information. At the time specified in paragraph (h) of this AD: Perform an ultrasonic inspection to detect cracking of the lower cap of the wing front and rear spars at wing station 51, in accordance with the Accomplishment Instructions of Canadair Alert Service Bulletin 215–A463, Revision 1, dated May 25, 1995, or Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Canadair Alert Service Bulletin 215–A454, Revision 1, dated May 25, 1995, Bombardier Alert Service Bulletin 215–A454, Revision 2, dated January 27, 1999, Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001, or Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009 (for the rear spar). As of the effective date of this AD, the inspection must be done in accordance with the Accomplishment Instructions of Bombardier

Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001, or Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009 (for the rear spar).

**(h) Retained Compliance Times**

This paragraph restates the requirements of paragraph (g) of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005). Do the inspections required by paragraph (g) of this AD at the earlier of the times specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Prior to the accumulation of 3,000 total flight hours, or within 25 flight hours after March 4, 1998 (the effective date of AD 98–04–08, Amendment 39–10321 (63 FR 7640, February 17, 1998)), whichever occurs later.

(2) At the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Prior to the accumulation of 2,500 total flight hours, or 8,000 total water drops, whichever occurs first.

(ii) Within 50 flight hours or 150 water drops after October 6, 2005 (the effective date of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), whichever occurs first.

**(i) Retained Repetitive Inspections With New Intervals**

This paragraph restates the requirements of paragraph (h) of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), with new intervals. Repeat the ultrasonic inspection specified in paragraph (g) of this AD at the times specified in paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) For airplanes on which any ultrasonic inspection required by paragraph (a) of AD 98–04–08, Amendment 39–10321 (63 FR 7640, February 17, 1998), has been done before October 6, 2005: Within 600 flight hours after the last ultrasonic inspection, do the ultrasonic inspection specified in paragraph (g) of this AD. Repeat the ultrasonic inspection specified in paragraph (g) of this AD thereafter at intervals not to exceed 600 flight hours or 2,000 water drops, whichever occurs first.

(2) For airplanes on which the ultrasonic inspection required by paragraph (a) of AD 98–04–08, Amendment 39–10321 (63 FR 7640, February 17, 1998), has not been done before October 6, 2005: After accomplishing the initial ultrasonic inspection specified in paragraph (g) of this AD, repeat the ultrasonic inspection specified in paragraph (g) of this AD thereafter at intervals not to exceed 600 flight hours or 2,000 water drops, whichever occurs first.

**(j) Retained Ultrasonic Inspection With New Service Information**

This paragraph restates the requirements of paragraph (i) of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), with new service information. At the later of the times specified in paragraphs (j)(1) and (j)(2) of this AD, do an ultrasonic inspection for cracks of the wing lower skin, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001; or Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009. Thereafter, do the ultrasonic inspection for cracks of the wing lower skin at the times specified for the ultrasonic inspection in paragraph (i) of this AD.

(1) Within 50 flight hours or 150 water drops after October 6, 2005, whichever occurs first.

(2) Before further flight after accomplishing the first ultrasonic inspection required by paragraph (g) or (i) of this AD after October 6, 2005.

**(k) Retained Corrective Actions With New Service Information**

This paragraph restates the requirements of paragraph (j) of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), with new service information. If any cracking is detected during any inspection required by paragraph (g), (i), or (j) of this AD, before further flight, accomplish paragraphs (k)(1) and (k)(2) of this AD.

(1) Rework the lower cap of the front or rear spar, as applicable, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar), and Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001, or Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009 (for the rear spar).

(2) After doing the rework specified in paragraph (k)(1) of this AD, do a general visual inspection, from inside the wing box, to detect cracks of the front spar web or rear spar web, as applicable, and the lower skin area, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001 (for the rear spar); or Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009 (for the rear spar). If any cracking is detected: Before further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

**(l) Retained Credit for Previous Actions**

(l) This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before October 6, 2005, using Canadair Alert Service Bulletin 215–A463, dated April 8, 1993; Canadair Alert Service Bulletin 215–A463, Revision 1, dated May 25, 1995; Canadair Alert Service Bulletin 215–A454, dated October 13, 1993; Canadair Alert Service Bulletin 215–A454, Revision 1, dated May 25, 1995; or Bombardier Alert Service Bulletin 215–A454, Revision 2, dated January 27, 1999.

(2) This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before October 6, 2005, using Bombardier Alert Wire 215–A454, dated December 23, 1992; and Bombardier Alert Wire 215–A463, dated March 26, 1993.

**(m) Retained Reporting Requirement With New Contact Information**

This paragraph restates the requirements of paragraph (m) of AD 2005–18–05, Amendment 39–14245 (70 FR 52009, September 1, 2005), with new contact information. For any inspection required by AD 2005–18–05, that is accomplished after October 6, 2005, within 30 days after accomplishing the inspection, submit a report of any inspection results (both positive and negative findings) to Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada; or to Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* As of the effective date of this AD, submit reports to Bombardier, Inc., in accordance with the contact information specified in Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009.

**(n) New Ultrasonic Inspection of the Rear Spar Lower Cap**

Within the compliance time specified in paragraph (p) of this AD: Perform an ultrasonic inspection to detect cracking of the right and left wing rear spar lower cap between wing station (WS) 51.00 and WS 49.50, in accordance with paragraph 2.C., ''Part A,'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009. Repeat the ultrasonic inspection thereafter at intervals not to exceed 600 flight hours or 2,000 water drops, whichever comes first. Accomplishment of the actions in this paragraph terminates the inspection requirements of the lower cap of the wing rear spars at WS 51.00 of paragraph (g) of this AD. Accomplishment of the actions in this paragraph does not terminate the inspection requirements of the lower cap of the wing front spars at WS 51.00 required by paragraph (g) of this AD.

(1) If any crack is found in the rear spar lower cap, before further flight, do a general visual inspection for cracks from inside the wing box, of the areas of the rear spar web and the wing lower skin adjacent to the crack in the rear spar lower cap, in accordance with paragraph 2.C., ''Part A,'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009.

(2) If any cracking is detected during any ultrasonic or general visual inspection required by paragraph (n) of this AD, before further flight, repair in accordance with a method approved by the Manager, New York ACO, FAA; or TCCA (or its delegated agent).

**(o) New Ultrasonic Inspection of the Lower Wing Skin**

Within the compliance time specified in paragraph (p) of this AD: Perform an ultrasonic inspection to detect cracking of the wing lower skin underneath the drag angle between the front spar and the rear spar at the left and right WS 51.00, in accordance

with paragraph 2.D., ''Part B,'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009. Do the ultrasonic inspection thereafter at intervals not to exceed 600 flight hours or 2,000 water drops, whichever comes first. Accomplishment of the actions in this paragraph terminates the requirements of paragraph (j) of this AD.

(1) If any crack is found in the wing lower skin, before further flight, do a general visual inspection for cracks from inside the wing box, i.e., the stringers adjacent to the skin crack, in accordance with paragraph 2.D., ''Part B,'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009.

(2) If any cracking is detected during any ultrasonic or general visual inspection required by paragraph (n) of this AD, before further flight, repair in accordance with a method approved by the Manager, New York ACO, FAA; or TCCA (or its delegated agent).

**(p) New Compliance Times for Paragraphs (n) and (o) of This AD**

At the later of the times specified in paragraphs (p)(1) and (p)(2) of this AD.

(1) Prior to the accumulation of 2,500 total flight hours, or 8,000 total water drops, whichever occurs first.

(2) Within 50 flight hours or 150 water drops after the effective date of this AD, whichever occurs first.

**(q) Credit for Previous Actions**

This paragraph provides credit for the inspections at WS 51.00 required by paragraphs (n) and (o) of this AD, if those inspections were performed within the last 550 flight hours or 1,850 water drops before the effective date of this AD using Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001.

**(r) New Reporting Requirements**

At the applicable time specified in paragraph (r)(1) or (r)(2) of this AD, submit a report of the findings (both positive and negative) of the inspections required by paragraphs (n) and (o) of this AD to Bombardier, Inc., in accordance with Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(s) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; phone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements:* 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.

**(t) Related Information**

Refer to MCAI Airworthiness Directive CF–1992–26R2, dated September 1, 2010, and the following service information for related information.

(1) Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001.

(2) Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001.

(3) Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009.

**(u) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on July 9, 2012.

(i) Bombardier Alert Service Bulletin 215–A454, Revision 4, dated November 18, 2009.

(4) The following service information was approved for IBR on October 6, 2005 (70 FR 52009, September 1, 2005).

(i) Bombardier Alert Service Bulletin 215–A454, Revision 2, dated January 27, 1999.

(ii) Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001.

(iii) Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001.

(5) The following service information was approved for IBR on March 4, 1998 (63 FR 7640, February 17, 1998).

(i) Canadair Alert Service Bulletin 215–A454, Revision 1, dated May 25, 1995.

(ii) Canadair Alert Service Bulletin 215–A463, Revision 1, dated May 25, 1995.

(6) For Bombardier, Inc. service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet: *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on May 18, 2012.

**Michael J. Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–12911 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2011–0363; Airspace Docket No. 11–ANM–8]**

## Modification of Class D and Class E Airspace and Revocation of Class E Airspace; Bellingham, WA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class D and Class E airspace at Bellingham, WA, to accommodate aircraft departing and arriving under Instrument Flight Rules (IFR) at Bellingham International Airport. This action, initiated by the biennial review of the Bellingham airspace area, enhances the safety and management of aircraft operations at the airport.

**DATES:** Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

## History

On March 26, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify controlled airspace at Bellingham, WA (77 FR 17362). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in paragraph 5000, 6002 and 6004, respectively, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR Part 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in that Order.

## The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class D airspace and Class E airspace designated as surface area to meet current standards for IFR departures and arrivals at Bellingham International Airport, Bellingham, WA. Also, this modification removes the Class E airspace area designated as an extension to a Class D or E surface area. This action is necessary for the safety and management of aircraft departing and arriving under IFR operations at the airport.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Bellingham International Airport, Bellingham, WA.

## Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

*Paragraph 5000 Class D airspace.*

* * * * *

**ANM WA D Bellingham, WA [Modified]**

Bellingham International Airport, WA
(Lat. 48°47′34″ N., long. 122°32′15″ W.)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.1-mile radius of Bellingham International Airport. This Class D airspace is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6002 Class E airspace designated as surface areas.*

* * * * *

**ANM WA E2 Bellingham, WA [Modified]**

Bellingham International Airport, WA
(Lat. 48°47′34″ N., long. 122°32′15″ W.)

That airspace extending upward from the surface within a 4.1-mile radius of Bellingham International Airport. This Class E airspace is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6004 Class E airspace areas designated as an extension to Class D or Class E surface area.*

* * * * *

**ANM WA E4 Bellingham, WA [Removed]**

Issued in Seattle, Washington, on May 24, 2012.

**John Warner,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2012–13370 Filed 6–1–12; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2012–0316; Airspace Docket No. 12–ANM–1]**

## Modification of Class E Airspace; Billings, MT

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace at Billings Logan International Airport, Billings, MT. Controlled airspace is necessary to accommodate aircraft using Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Billings Logan International Airport. This action will also make a minor adjustment to the geographic coordinates of the airport. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

### History

On April 6, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify controlled airspace at Billings, MT (77 FR 20747). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in that Order.

### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface, at Billings Logan International Airport, to accommodate aircraft using RNAV (GPS) standard instrument approach procedures at the airport. The geographic coordinates of the airport are updated to coincide with the FAA's aeronautical database. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Billings Logan International Airport, Billings, MT.

### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ANM MT E5 Billings, MT [Modified]**

Billings Logan International Airport, MT
(Lat. 45°48′28″ N., long. 108°32′34″ W.)

That airspace extending upward from 700 feet above the surface within a 16-mile radius of Billings Logan International Airport; that airspace extending upward from 1,200 feet above the surface within a 63-mile radius of the Billings Logan International Airport.

Issued in Seattle, Washington, on May 24, 2012.

**John Warner,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2012–13373 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 510

**[Docket No. FDA–2012–N–0002]**

## New Animal Drugs; Change of Sponsor's Name

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Novopharm Ltd. to Teva Canada Ltd.

**DATES:** This rule is effective June 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** Steven D. Vaughn, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8300, email: *steven.vaughn@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Novopharm Ltd., 30 Novopharm Ct., Toronto, Ontario, Canada M1B 2K9 has informed FDA of a change of name to Teva Canada Ltd. Accordingly, the Agency is amending the regulations in 21 CFR 510.600(c) to reflect these changes.

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 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

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 510 is amended as follows:

## PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''Novopharm Ltd.'' and alphabetically add a new entry for ''Teva Canada Ltd.''; and in the table in paragraph (c)(2), revise the entry for ''043806'' to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

| Firm name and address | Drug labeler code |
|---|---|
| * * * * * | |
| Teva Canada Ltd., 30 Novopharm Ct., Toronto, Ontario, Canada M1B 2K9 ..... | 043806 |
| * * * * * | |

(2) * * *

| Drug labeler code | Firm name and address |
|---|---|
| * * * * * | |
| 043806 ..... | Teva Canada Ltd., 30 Novopharm Ct., Toronto, Ontario, Canada M1B 2K9. |
| * * * * * | |

Dated: May 29, 2012.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 2012–13409 Filed 6–1–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2011–1029]**

**RIN 1625–AA00; AA87**

## Safety & Security Zones; OPSAIL 2012 Connecticut, Thames River, New London, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety and security zones on the Thames River near New London, CT for OPSAIL 2012 Connecticut (CT) activities. This action is necessary to provide for the safety of life and protection of naval vessels on navigable waters during OPSAIL 2012 CT. This action will restrict vessel from entering into, transiting through, mooring or anchoring within the zones unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS).

**DATES:** This rule is effective from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

This rule will be enforced during the following dates and times:

1. Naval Vessel Security Zones will be enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

2. Admiral Shear State Pier Security Zone will be enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

3. Fireworks Safety Zone will be enforced from 8:30 p.m. until 10 p.m. on July 7, 2012. If the fireworks display is postponed, it will be enforced from 8:30 p.m. until 10 p.m. on July 8, 2012.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2011–1029]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this 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:**

### Table of Acronyms

COTP Captain of the Port
CT Connecticut
DHS Department of Homeland Security
FR **Federal Register**
SLIS Sector Long Island Sound

### A. Regulatory History and Information

On March 20, 2012 the Coast Guard published a notice of proposed rulemaking entitled Safety & Security Zones; OPSAIL 2012 Connecticut, Thames River, New London, CT in the **Federal Register** (77 FR 16198). We received no comments on the proposed rule. No public meeting was requested and none were held.

*Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the* **Federal Register**. *Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the regulation's intended objectives of protecting persons and vessels, and enhancing public and maritime safety.*

### B. Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety and security zones.

OPSAIL 2012 CT is a multi-day marine event involving a gathering of naval vessels, and a fireworks display. This rule is necessary to; (1) protect participating naval vessels from security threats. (2) Protect waterway users from the dangers inherent to fireworks displays.

### C. Discussion of Comments, Changes and the Final Rule

No comments were received and no changes were made to the final rule.

### D. Regulatory Analyses

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

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard has determined this rule is not a significant regulatory action for the following reasons: (1) The regulated areas will be of limited

duration and cover only a small portion of the navigable waterways; (2) vessels may transit the navigable waterways outside of the safety and security zones and (3) Vessels requiring entry into the safety and security zones may be authorized to do so by the COTP SLIS or designated representative.

Advanced public notifications will also be made to the local maritime community through the Local Notice to Mariners as well as Broadcast Notice to Mariners. In addition, the sponsoring organization, OPSAIL, Inc., is planning to publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. 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 might affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit the Thames River from July 3–9, 2012. The regulated areas will be of limited duration and cover only a small portion of the navigable waterways. Vessels would be able transit the navigable waterways outside of the safety and security zones. Vessels requiring entry into the safety and security zones may be authorized to do so by the COTP 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, OPSAIL, Inc., is planning to publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. 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 in the **FOR FURTHER INFORMATION CONTACT**, above.

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

*4. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*5. 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 rule under that Order and determined that this rule does not have implications for federalism.

*6. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

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

*9. Civil Justice Reform*

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

*10. Protection of Children*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

*13. Technical Standards*

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

*14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes temporary safety and security zones. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the

discovery of a significant environmental impact from this rule.

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–1029 to read as follows:

**§ 165.T01–1029 Safety & Security Zones; OPSAIL 2012 Connecticut, Thames River, New London, CT.**

(a) The following areas are established as security zones:

(1) 100 yards around all U.S. naval vessels measuring 100 feet or less in length while in the navigable waters of the Thames River, CT between 41°21′46″ N, 072°05′17″ W (Thames River Railroad Bridge in the Port of New London) and 41°18′21.14″ 72°04′38.78″ (New London Ledge light), whether the U.S. naval vessel is underway, anchored, or moored.

(2) 100 yards around all foreign naval vessels in the navigable waters of the Thames River, CT between 41°21′46″ N, 072°05′17″ W (Thames River Railroad Bridge in the Port of New London) and 41°18′21.14″ 72°04′38.78″ (New London Ledge light), whether the foreign naval vessel is underway, anchored, or moored.

(3) All navigable waters surrounding Admiral Shear State Pier shoreward of a boundary line created by connecting the following coordinates. Beginning at position 41°21′37″ N, 072°05′26″ W then to position 41°21′25″ N, 072°05′16″ W then to position 41°21′21″ N, 072°05′24″ W then ending at position 41°21′23″ N, 072°05′26″ W (NAD 83).

(b) The following area is established as a safety zone: All navigable waters within a 1000-foot radius of each fireworks barge located in approximate positions 41°20′57.1″ N, 072°05′22.1″ W and 41°21′03.3″ N, 072°05′24.5″ W (NAD 83).

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) In accordance with the general regulations in § 165.23 and § 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port (COTP) Sector long Island Sound (SLIS) or designated representative.

(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 safety or security zones 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 safety or security zones 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 safety and security zones, 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.

(d) *Enforcement period.* This section will be enforced during the following times.

(1) Naval Vessel Security Zones will be enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

(2) Admiral Shear State Pier Security Zone will be enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

(3) Fireworks Safety Zone will be enforced from 8:30 p.m. until 10 p.m. on July 7, 2012. If the fireworks display is postponed, it will be enforced from 8:30 p.m. until 10 p.m. on July 8, 2012.

Dated: May 25, 2012.

**J.M. Vojvodich,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2012–13503 Filed 5–31–12; 4:15 pm]

BILLING CODE 9110–04–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[MB Docket No. 11–168; RM–11642; DA 12–790]**

## Radio Broadcasting Services; Llano, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of Bryan King (''petitioner''), removes FM Channel 293C3 and allots FM Channel 242C3 at Llano, Texas, contingent upon the final outcome in MB Docket No. 05–112. Channel 242C3 can be allotted at Llano, consistent with the minimum distance separation requirements of the Commission's rules, at coordinates 30–55–34 NL and 98–43–24 WL, with a site restriction of 19.1 km (11.9 miles) north of the community. The Government of Mexico has concurred with the allotment of Channel 242C3 at Llano, which is located within 320 kilometers (199 miles) of the U.S.-Mexican border. *See* **SUPPLEMENTARY INFORMATION** *infra.*

**DATES:** Effective July 5, 2012.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order,* MB Docket No. 11–168, adopted May 17, 2012, and released May 18, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office

pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

Federal Communications Commission.

**Peter H. Doyle,**

*Chief, Audio Division, Media Bureau.*

**Final Rule**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336 and 339.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 293C3 at Llano and by adding Channel 242C3 at Llano.

[FR Doc. 2012–13222 Filed 6–1–12; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### 49 CFR Parts 371, 375, 386, and 387

### State Enforcement of Household Goods Consumer Protection

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

**ACTION:** Notice of enforcement.

**SUMMARY:** FMCSA provides an updated list of statutory provisions and FMCSA regulations that State household goods regulatory authorities and State attorneys general may enforce, reflecting amendments to FMCSA's regulations regarding brokers of household goods. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) gives State household goods regulatory authorities and State attorneys general the right to enforce certain consumer protection provisions that apply to individual shippers and are related to interstate movement of the goods.

**DATES:** On November 17, 2006, FMCSA published a list of the statutory and regulatory provisions that State attorneys general and household goods regulators are allowed to enforce pursuant to section 4206(b) of SAFETEA–LU (71 FR 67009). That enforcement authority was retroactive to August 10, 2005, the date of enactment of SAFETEA–LU. The Agency amended its household goods regulations on November 29, 2010 (75 FR 72987). States are now authorized to enforce those regulations, retroactive to January 28, 2011, the effective date of the 2010 rule. However, the requirement for a $25,000 surety bond or trust fund (49 CFR 387.307(a)(2)) had a delayed compliance date of January 1, 2012, and States may enforce that provision only on or after that date.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brodie Mack, FMCSA Household Goods Enforcement and Compliance Team Leader, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001, (202) 366–8045.

**SUPPLEMENTARY INFORMATION:** Section 4206(b) of SAFETEA–LU (Pub. L. 109–59, 119 Stat. 1144, 1754, codified at 49 U.S.C. 14710 and 14711), provides that State household goods regulatory authorities and State attorneys general may enforce certain consumer protection provisions of Title 49 of the United States Code (U.S.C.) and related regulations applicable to the delivery and transportation of household goods in interstate or foreign commerce. Section 14710 authorizes State agencies that regulate the movement of intrastate household goods to ''enforce the consumer protection provisions of this title [Title 49] that apply to individual shippers, as determined by the Secretary [of the U.S. Department of Transportation], and are related to the delivery and transportation of household goods in interstate commerce.'' Section 14711 authorizes State attorneys general to bring civil actions in the U.S. district courts to enforce the consumer protection provisions that apply to individual shippers and are related to the delivery and transportation of household goods in interstate or foreign commerce.

On November 17, 2006, FMCSA issued a notice that specified which statutory provisions and FMCSA regulations State household goods regulatory authorities and State attorneys general are authorized to enforce pursuant to 49 U.S.C. 14710–14711 (71 FR 67009). In that notice, FMCSA also stated that it was developing a notice of proposed rulemaking that would require brokers of household goods to provide individual shippers with specific information required under section 4212 of SAFETEA–LU. The Agency stated that it would add that rule, once it became final, to the list of regulations that State household goods regulatory authorities and State attorneys general may enforce.

On November 29, 2010, FMCSA issued that final rule (75 FR 72987). It amended FMCSA's regulations and imposed various requirements on both household goods carriers and brokers as follows.

- *Special Rules for Household Goods Brokers, 49 CFR part 371, subpart B.* Household goods brokers offering services to individual shippers and operating in interstate or foreign commerce are subject to the requirements of subpart B of part 371. This subpart requires that brokers use only motor carriers that are properly licensed and authorized to operate (49 CFR 371.105); provide certain disclosures in advertisements and Internet Web homepages, and to individual shippers (49 CFR 371.107 through 371.111, 371.117); provide individual shippers with a written estimate (49 CFR 371.115); and maintain agreements with motor carriers before providing written estimates on behalf of these carriers (49 CFR 371.117). Subpart B also establishes penalties for violations (49 CFR 371.121).
- *Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations, 49 CFR part 375.* Household goods carriers must provide certain consumer protection information to prospective individual shippers unless the consumer expressly waives physical receipt (49 CFR 375.213). A household goods carrier permitting a broker to provide estimates on its behalf must enter into an agreement with the broker adopting the broker's estimate as its own (49 CFR 375.409).
- *Penalty Schedule; Violations and Monetary Penalties, 49 CFR part 386, Appendix B.* Household goods brokers are subject to statutory penalties for providing estimates without an agreement with a household goods motor carrier and for operating without being registered with FMCSA (49 CFR part 386, Appendix B(g)(22)–(23)).
- *Minimum Levels of Financial Responsibility for Motor Carriers, 49 CFR part 387.* The current minimum level of financial responsibility required of household goods brokers is $25,000, as of January 1, 2012 (49 CFR 387.307(a)(2)).

The provisions of FMCSA's November 29, 2010, final rule are now being included in the list of regulations that State household goods regulatory authorities and State attorneys general may enforce, effective as of January 28, 2011, except for 49 CFR 387.307(a)(2), effective as of January 1, 2012. To assist interested parties, the list of statutory

and regulatory provisions that State household goods regulatory authorities and State attorneys general may enforce pursuant to sections 14710 and 14711 of SAFETEA–LU is provided in its entirety below. The brief description accompanying each item listed below is for informational purposes only and is not intended to be a definitive interpretation of legal requirements.

**Statutes**

*1. Tariff Requirement for Certain Transportation, 49 U.S.C. 13702*

Household goods carriers must have tariffs covering transportation and related services and must charge in accordance with their tariffs. The carrier must give notice of availability of the tariff to individual shippers and must make the tariff available for inspection to shippers upon reasonable request.

*2. Household Goods Rates—Estimates; Guarantees of Service, 49 U.S.C. 13704*

Rates for transportation of household goods moving on a written binding estimate must be available to shippers on a non-preferential basis and must not result in charges that are predatory.

*3. Payment of Rates; Exceptions, 49 U.S.C. 13707(b)*

Household goods carriers must give up possession of a shipment upon payment of 100 percent of a binding estimate or 110 percent of a non-binding estimate, but may collect all charges related to post-contract services and impracticable operations at delivery (with some limitations as to the latter).

*4. Requirement for Registration, 49 U.S.C. 13901; General Civil Penalties, 49 U.S.C. 14901(d)(3)*

FMCSA registration is required to provide transportation or brokerage services subject to FMCSA jurisdiction. Transportation or brokering of household goods without FMCSA registration is punishable by a minimum civil penalty of $25,000 per violation.

*5. Household Goods Carrier Operations; Estimates, 49 U.S.C. 14104(b)*

Household goods carriers must comply with certain estimating requirements and provide individual shippers with prescribed informational publications.

*6. Liability of Carriers Under Receipts and Bills of Lading; Limiting Liability of Household Goods Carriers to Declared Value; 49 U.S.C. 14706(f)*

Household goods carriers are liable for the replacement value of goods unless the individual shipper waives full value protection in writing.

*7. Dispute Settlement Program for Household Goods Carriers, 49 U.S.C. 14708*

Household goods carriers must provide binding arbitration upon a shipper's request for disputes up to $10,000 involving loss and damage and payment of charges in addition to those collected at delivery.

*8. General Civil Penalties; Estimate of Broker Without Carrier Agreement, 49 U.S.C. 14901(d)(2)*

Household goods brokers making estimates before entering into an agreement with a carrier are liable for a minimum civil penalty of $10,000 per violation.

*9. General Civil Penalties; Violation Relating to Transportation of Household Goods, 49 U.S.C. 14901(e)*

Any person falsifying documents relating to household goods shipment weight or charging for accessorial services that are not performed or are not reasonably necessary for the safe and adequate movement of the shipment is subject to a minimum civil penalty of $2,000 for the first violation and $5,000 for each subsequent violation.

*10. Civil Penalty Procedures, 49 U.S.C. 14915*

Holding an household goods shipment hostage is punishable by a minimum civil penalty of $10,000 per violation.

**Regulations**

*1. Designation of Process Agent; Required States, 49 CFR 366.4*

All carriers and brokers must designate agents for service of court process in States of operation.

*2. Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims, 49 CFR 370.3 Through 370.9*

These sections contain regulations governing voluntary disposition of loss and damage claims. The regulations protect individual shippers, as well as business shippers, by ensuring that motor carriers investigate claims and process them in accordance with prescribed procedures.

*3. Records To Be Kept by Brokers; Right of Review, 49 CFR 371.3(c)*

Brokers must provide access to transaction records by each party to a brokered transaction.

*4. Records To Be Kept by Brokers; Misrepresentation, 49 CFR 371.7*

Brokers must not misrepresent their name or broker status.

*5. Bills of Lading for Freight Forwarders, 49 CFR 373.201*

All household goods freight forwarders must issue a shipper a thorough bill of lading covering transportation from origin to destination.

*6. Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations, 49 CFR Part 375*

This part contains consumer protection regulations governing transportation of household goods for individual shippers in interstate commerce. The regulations set forth the rights and obligations of household goods carriers and shippers with respect to services provided; liability; estimates; pick up, delivery and transportation of shipments; payment; and penalties for noncompliance.

*7. Procedures Governing the Processing, Investigation, and Disposition of Overcharge, Duplicate Payment, or Over-Collection Claims, 49 CFR 378.3 Through 378.9*

These sections set forth the rights and obligations of household goods carriers and shippers with respect to the filing and processing of claims for overcharge, duplicate payment, and over collection for the transportation of property, including household goods.

*8. Surety Bond, Certificate of Insurance, or Other Securities; Cargo Insurance, 49 CFR 387.301(b)*

Household goods carriers must obtain cargo insurance in prescribed amounts and file evidence of such insurance with FMCSA.

*9. Property Broker Surety Bond or Trust Fund, 49 CFR 387.307*

All brokers, including household goods brokers, must obtain and file a surety bond or trust fund to pay shippers or motor carriers if the broker fails to carry out its contracts for the arrangement of transportation.

*10. General Requirements, 49 CFR 387.403*

Household goods freight forwarders must obtain and file the same level of cargo insurance required of household goods motor carriers.

*11. Special Rules for Household Goods Brokers, 49 CFR Part 371, Subpart B*

Household goods brokers offering services to individual shippers and

operating in interstate or foreign commerce are subject to the requirements of subpart B of part 371. This subpart requires that brokers: use only motor carriers that are properly licensed and authorized to operate (49 CFR 371.105); provide certain disclosures in advertisements and Internet Web homepages, and to individual shippers (49 CFR 371.107 through 371.111, 371.117); provide individual shippers with a written estimate (49 CFR 371.115); and maintain agreements with motor carriers before providing written estimates on behalf of these carriers (49 CFR 371.117). Subpart B also establishes penalties for violations (49 CFR 371.121).

Issued on: May 16, 2012.

**Anne S. Ferro,**

*Administrator.*

[FR Doc. 2012–13530 Filed 6–1–12; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 541

**[Docket No. NHTSA–2012–0032]**

**RIN 2127–AL21**

## Federal Motor Vehicle Theft Prevention Standard; Final Listing of 2013 Light Duty Truck Lines Subject to the Requirements of This Standard and Exempted Vehicle Lines for Model Year 2013

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule announces NHTSA's determination that there are no new model year (MY) 2013 light duty truck lines subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, because they have been determined by the agency to be high-theft or because they have a majority of interchangeable parts with those of a passenger motor vehicle line. This final rule also identifies those vehicle lines that have been granted an exemption from the parts-marking requirements, because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria.

**DATES:** *Effective Date:* The amendment made by this final rule is effective June 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Consumer Standards Division, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, 1200 New Jersey Avenue SE., (NVS–131, Room W43–302) Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–4807. Her fax number is (202) 493–0073.

**SUPPLEMENTARY INFORMATION:** The theft prevention standard applies to (1) all passenger car lines, (2) all multipurpose passenger vehicle (MPV) lines with a gross vehicle weight rating (GVWR) of 6,000 pounds or less, (3) low-theft light-duty truck (LDT) lines with a GVWR of 6,000 pounds or less that have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines and (4) high-theft light-duty truck lines with a GVWR of 6,000 pounds or less.

The purpose of the theft prevention standard (49 CFR Part 541) is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines subject to the requirements of the standard.

Section 33104(d) provides that once a line has become subject to the theft prevention standard, the line remains subject to the requirements of the standard unless it is exempted under section 33106. Section 33106 provides that a manufacturer may petition annually to have one vehicle line exempted from the requirements of section 33104, if the line is equipped with an antitheft device meeting certain conditions as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of those LDT lines that have been determined to be high theft pursuant to 49 CFR Part 541, those LDT lines that have been determined to have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines and those vehicle lines that are exempted from the theft prevention standard under section 33104. Appendix A to Part 541 identifies those LDT lines that are or will be subject to the theft prevention standard beginning in a given model year. Appendix A–I to Part 541 identifies those vehicle lines that are or have been exempted from the theft prevention standard.

For MY 2013, there are no new LDT lines that will be subject to the theft prevention standard in accordance with the procedures published in 49 CFR Part 542. Therefore, Appendix A does not need to be amended.

For MY 2013, the list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 is amended to include ten vehicle lines newly exempted in full. The ten exempted vehicle lines are the Buick Verano, Chrysler Dart, Ford C–Maxx, Land Rover LR2, Mazda CX–5, Mitsubishi i-MiEV, Nissan Juke, Subaru XV Crosstrek, Toyota Prius and the Volkswagen Audi A4 Allroad (MPV).

Subsequent to publishing the April 12, 2011 final rule (See 76 FR 20251), Nissan North America, Inc., (Nissan) informed the agency that beginning with MY 2012, it would no longer be installing an antitheft device as standard equipment on the Versa vehicle line and would begin applying parts marking to its Versa vehicles beginning with the same model year. Nissan was granted a parts marking exemption by the agency on January 3, 2007 for the Versa line (See 72 FR 188), but changed its nameplate from Nissan Versa to the Versa Hatchback vehicle line beginning with MY 2012. The agency also granted two petitions for exemption in full subsequent to publishing the April 2011 **Federal Register** notice. Specifically, the agency granted a full exemption to Nissan North America, Inc., for its Nissan Leaf vehicle line and Telsa Motors, Inc., for its Model S vehicle line beginning with their MY 2012 vehicles.

We note that the agency also removes vehicle lines that have been discontinued more than 5 years ago from the list published in the **Federal Register**, annually. Therefore, the agency is removing the Ford Five-Hundred (2007) and Volkswagen Audi Allroad vehicle lines from the Appendix A–I listing. The agency will continue to maintain a comprehensive database of all exemptions on our Web site. However, we believe that republishing a list containing vehicle lines that have not been in production for a considerable period of time is unnecessary.

The vehicle lines listed as being exempt from the standard have previously been exempted in

accordance with the procedures of 49 CFR Part 543 and 49 U.S.C., 33106. Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331. For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

## Regulatory Impacts

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities,

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency,

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It will not impose any new burdens on vehicle manufacturers. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency, no new costs or burdens will result.

### B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their rules on small businesses, small organizations and small governmental jurisdictions. I have considered the effects of this rulemaking action under the Regulatory Flexibility Act and certify that it would not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is only to inform the public of agency's previous actions.

### C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment. Accordingly, no environmental assessment is required.

### D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

### E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually ($120.7 million as adjusted annually for inflation with base year of 1995). The assessment may be combined with other assessments, as it is here.

This final rule will not result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than $120.7 million annually. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency, no new costs or burdens will result.

### F. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, ''Civil Justice Reform'' [1], the agency has considered whether this final rule has any retroactive effect. We conclude that it would not have such an effect. In accordance with § 33118, when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

### G. Paperwork Reduction Act

The Department of Transportation has not submitted an information collection request to OMB for review and clearance under the Paperwork reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This rule does not impose any new information collection requirements on manufacturers.

### List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 541 is amended as follows:

## PART 541—[AMENDED]

■ 1. The authority citation for part 541 continues to read as follows:

**Authority:** 49 U.S.C. 33101, 33102, 33103, 33104, 33105 and 33106; delegation of authority at 49 CFR 1.50.

■ 2. In Part 541, Appendix A–I is revised to read as follows:

BILLING CODE 4910–59–P

[1] *See* 61 FR 4729, February 7, 1996.

**Appendix A-I to Part 541 – Lines With Antitheft Devices Which are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543**

| Manufacturer | Subject Lines |
|---|---|
| BMW | MINI |
| | X1 |
| | X3 |
| | X5 |
| | Z4 |
| | 1 Car Line |
| | 3 Car Line |
| | 5 Car Line |
| | 6 Car Line |
| | 7 Car Line |

| Manufacturer | Subject Lines |
|---|---|
| CHRYSLER | 300C |
| | Fiat 500 |
| | Town and Country MPV |
| | Jeep Grand Cherokee |
| | Jeep Patriot |
| | Jeep Wrangler |
| | Dodge Charger |
| | Dodge Challenger |
| | Dodge Dart[1] |
| | Dodge Journey |
| | Dodge Magnum (2008) |
| FORD MOTOR CO | C-Maxx[1] |
| | Escape |
| | Explorer |
| | Focus |
| | Fusion |
| | Lincoln Town Car |
| | Mustang |
| | Mercury Mariner |
| | Mercury Grand Marquis |
| | Mercury Sable |
| | Taurus |
| | Taurus X |
| GENERAL MOTORS | Buick Lucerne |
| | Buick LaCrosse |
| | Buick Verano[1] |
| | Cadillac CTS |
| | Cadillac DTS/Deville[2] |
| | Cadillac XTS/Deville |
| | Chevrolet Camaro |
| | Chevrolet Cobalt (2005-2010) |
| | Chevrolet Corvette |
| | Chevrolet Cruze |
| | Chevrolet Equinox |
| | Chevrolet Impala/Monte Carlo |
| | Chevrolet Malibu/Malibu Maxx |
| | Chevrolet Sonic |
| | Chevrolet Uplander |
| | GMC Terrain |
| | Pontiac G6 |
| | Pontiac Grand Prix |

[1] Granted an exemption from the parts marking requirements beginning with MY 2013.

[2] The nameplate for the Cadillac DTS vehicle line was changed to Cadillac XTS beginning with MY 2013.

| Manufacturer | Subject Lines |
|---|---|
| | Saturn Aura |
| HONDA | Acura TL |
| HYUNDAI | Azera |
| | Genesis[2] |
| | Equus (originally codenamed VI) |
| JAGUAR | XJ |
| | XK |
| | Land Rover LR2[1] |
| | Land Rover Range Rover Evoque |
| KIA | Amanti[2] |
| MAZDA | 2 |
| | 3 |
| | 5 |
| | 6 |
| | CX-5[1] |
| | CX-7 |
| | CX-9 |
| | MX-5 Miata |
| | Tribute |
| MERCEDES-BENZ | smart USA fortwo |
| | SL-Class (the models within this line are): |
| | SL550 |
| | SL600 |
| | SL55 |
| | SL 63/AMG |
| | SL 65/AMG |
| | SLK-Class (the models within this line are): |
| | SLK 300 |
| | SLK 350 |
| | SLK 55 AMG |
| | S-Class/CL-Class (the models within this line are): |
| | S450 |
| | S500 |
| | S550 |
| | S600 |
| | S55 |
| | S65 |
| | CL500 |
| | CL600 |

[1] Granted an exemption from the parts marking requirements beginning with MY 2013.

[2] Hyundai and Kia did not utilize the exemptions granted for the Genesis and Amanti vehicle lines respectively and have parts marked these vehicle lines since MY 2009.

| Manufacturer | Subject Lines |
|---|---|
| | CL55 |
| | CL65 |
| | C-Class/CLK-Class (the models within this line are): |
| | C240 |
| | C300 |
| | C350 |
| | CLK 350 |
| | CLK 550 |
| | CLK 63AMG |
| | E-Class/CLS Class (the models within this line are): |
| | E320/E320DT CDi |
| | E350/E500/E55 |
| | CLS500/CLS55 |
| MITSUBISHI | Eclipse |
| | Endeavor |
| | Galant |
| | iMiEV[1] |
| | Lancer |
| | Outlander |
| | Outlander Sport |
| NISSAN | Altima |
| | Cube |
| | Juke[1] |
| | Leaf[2] |
| | Maxima |
| | Murano |
| | Pathfinder |
| | Quest |
| | Rogue |
| | Sentra |
| | Versa (2008-2011) |
| | Versa Hatchback[3] |
| | Infiniti G |
| | Infiniti M |
| PORSCHE | 911 |
| | Boxster/Cayman |
| | Panamera |
| SAAB | 9-3 |
| | 9-5 |

[1] Granted an exemption from the parts marking requirements beginning with MY 2013.

[2] Granted an exemption from the parts marking requirements beginning with MY 2012.

[3] The nameplate for the Nissan Versa was changed to the Versa Hatchback in MY 2012. Beginning with its MY 2012 vehicles, Nissan did not utilize the exemption granted for the Versa vehicle line and has parts marked the line since MY 2012.

| Manufacturer | Subject Lines |
|---|---|
| SUBARU | Forester |
| | Impreza |
| | Legacy |
| | B9 Tribeca |
| | Outback |
| | XV Crosstrek[1] |
| SUZUKI | Kizashi |
| | XL-7 |
| TESLA | Model S[2] |
| TOYOTA | Camry |
| | Corolla |
| | Lexus ES |
| | Lexus GS |
| | Lexus LS |
| | Lexus SC |
| | Prius[1] |
| VOLKSWAGEN | Audi A3 |
| | Audi A4 |
| | A4 Allroad MPV[1] |
| | Audi A6 |
| | Audi A8 |
| | Audi Q5 |
| | New Beetle |
| | Golf/Rabbit/GTI/R32/R |
| | Jetta |
| | Passat |
| | Tiguan |

[1] Granted an exemption from the parts marking requirements beginning with MY 2013.

[2] Granted an exemption from the parts marking requirements beginning with MY 2012.

Issued on: May 29, 2012.

**Nathaniel Beuse,**

*Acting Associate Administrator for Rulemaking.*

[FR Doc. 2012–13424 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–59–C

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 226**

**[Docket No. 120521436–2436–01]**

**RIN 0648–XA998**

## Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 12-Month Determination on How To Proceed With a Petition To Revise Designated Critical Habitat for the Endangered Leatherback Sea Turtle

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

**ACTION:** Notice of 12-month determination.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), announce our 12-month determination on how to proceed with a petition to revise the critical habitat designation for leatherback sea turtles pursuant to the Endangered Species Act (ESA) of 1973, as amended. The petition from Sierra Club requested a revision of the existing critical habitat designation for the leatherback sea turtle by adding the coastline and offshore waters of the Northeast Ecological Corridor in Puerto Rico. Based on the lack of reasonably

defined physical or biological features that are essential to the leatherback turtle's conservation and that may require special management considerations or protection, we are denying the petitioned revision.

**DATES:** The finding announced in this document was made on June 4, 2012.

**ADDRESSES:** Information and supporting documentation that we used in preparing this finding are available for public inspection by appointment, during normal business hours (9:00 a.m.–5:00 p.m. EDT) at the NMFS, Southeast Regional Office, Protected Resources Division, 263 13th Ave. South, St. Petersburg, FL 33701–5505.

**FOR FURTHER INFORMATION CONTACT:** Dennis Klemm, NMFS, Southeast Regional Office, at the address above, by phone (727) 824–5312, or email *Dennis.klemm@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

## Background

On November 3, 2010, we received a petition from Sierra Club to revise designated critical habitat for leatherback sea turtles to include certain marine areas off the coast of Puerto Rico. This was a second, more detailed petition submitted by Sierra Club following our finding that a previous petition received on February 23, 2010, did not present substantial information indicating the petitioned revision may be warranted (negative 90-day finding; 75 FR 41436, July 16, 2010). On May 5, 2011, we published a positive 90-day finding concluding that the second petition presented substantial scientific information indicating the requested revision may be warranted (76 FR 25660).

## ESA Statutory and Regulatory Provisions on Petitions To Revise Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA (16 U.S.C. 1532(3)) as: (1) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed * * * upon a determination by the Secretary [of Commerce] that such areas are essential for the conservation of the species. Section 4(a)(3)(A)(i) of the ESA (16 U.S.C. 1533(a)(3)(A)(i)) requires that critical habitat shall be initially designated at the time of listing a species as threatened or endangered. The ESA further provides that NMFS may revise critical habitat from time-to-time as appropriate (section 4(a)(3)(A)(ii); 16 U.S.C. 1533(a)(3)(A)(ii)), and allows interested persons to petition for revisions (section 4(b)). Section 4(b)(3)(D) of the ESA (16 U.S.C. 1533(b)(3)(D)), requires, to the maximum extent practicable, that within 90 days of receiving a petition to revise a critical habitat designation, the Secretary of Commerce (Secretary) make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The Secretary must then determine how he intends to proceed with the requested revision within 12 months after receiving the petition and promptly publish notice of such intention in the **Federal Register**. In contrast to the ESA's requirements for findings on petitions to list species, there are no guidelines or required findings in the ESA or implementing regulations that govern the substance of NMFS' decision on how to proceed with a petition to revise critical habitat. Thus, NMFS has broad discretion in determining when and whether to revise critical habitat.

## Status and Biology of the Leatherback Sea Turtle

On June 2, 1970, the leatherback sea turtle was listed as endangered throughout its entire range under the Endangered Species Conservation Act of 1969, a precursor to the ESA (35 FR 8491). Leatherback sea turtles are the largest living turtles and range farther than any other sea turtle species. Leatherbacks are widely distributed throughout the oceans of the world and are found in waters of the Atlantic, Pacific, and Indian Oceans (Ernst and Barbour, 1972). The large size of adult leatherbacks and their tolerance of relatively low temperatures allows them to occur in northern waters such as off Labrador and in the Barents Sea (NMFS and U.S. Fish and Wildlife Service (USFWS), 1995). The leatherback is the only sea turtle that lacks a hard, bony shell. A leatherback's top shell (carapace) is approximately 1.5 inches (4 cm) thick and consists of leathery, oil-saturated connective tissue overlaying loosely interlocking dermal bones. The carapace has seven longitudinal ridges and tapers to a blunt point. Adult leatherbacks forage in temperate and subpolar regions from 71° N to 47° S latitude in all oceans and undergo extensive migrations to and from their tropical nesting beaches. Leatherbacks are deep divers, with recorded dives to depths in excess of 1,000 m (Eckert *et al.,* 1989; Hays *et al.,* 2004). When the hatchlings leave the nesting beaches, they move offshore but eventually use both coastal and pelagic waters. Very little is known about the pelagic habits of hatchlings and juveniles, and they have not been documented to be associated with *Sargassum* areas as are other sea turtle species.

The most recent assessment of leatherback populations in the Atlantic Ocean divided the rookeries into seven stocks based on nesting beach: Florida, Northern Caribbean (including Puerto Rico), Western Caribbean, Southern Caribbean/Guianas, Brazil, West Africa, and South Africa (Turtle Expert Working Group (TEWG), 2007). The population estimate derived from the recent assessment for the North Atlantic stocks ranges between 34,000 and 90,000 adult turtles, including 20,000 to 56,000 adult females (TEWG, 2007). While data for leatherbacks in much of the Pacific Ocean indicate low population numbers and a substantial declining trend, the data for leatherbacks in the Atlantic Ocean indicate an overall trend of stable or increasing abundance. The data indicate long-term stable or increasing nesting populations for all of the stocks except West Africa (no long-term data are available) and the Western Caribbean (a slightly-declining post-1990 trend; TEWG, 2007).

## Existing Critical Habitat and the Petition To Revise Leatherback Critical Habitat

Critical habitat for the leatherback sea turtle was designated by the USFWS at Sandy Point Beach, St. Croix, U.S. Virgin Islands on March 23, 1978 (43 FR 12050), and subsequently offshore of that beach on March 23, 1979, by NMFS (44 FR 17710). These designations occurred without identifying physical or biological features that are essential to the leatherback's conservation with specificity, as was the case for other early critical habitat designations. More recently, we designated critical habitat for leatherback sea turtles in the Pacific Ocean (77 FR 4170; January 26, 2012). This designation includes approximately 16,910 square miles (43,798 square km) stretching along the California coast from Point Arena to Point Arguello east of the 3,000 meter depth contour; and 25,004 square miles (64,760 square km) stretching from Cape Flattery, Washington to Cape Blanco, Oregon east of the 2,000 meter depth contour. The areas designated as critical habitat in the Pacific Ocean contain a single identified essential biological feature—the leatherback's specific prey,

primarily scyphomedusae of the order Semaeostomeae (Chrysaora, Aurelia, Phacellophora, and Cyanea).

On February 23, 2010, we received a petition from Sierra Club asking us and the USFWS to revise critical habitat for the endangered leatherback sea turtle. The portion of the petitioned critical habitat under our jurisdiction was described as ''the waters off the coastline of the Northeast Ecological Corridor of Puerto Rico, sufficient to protect leatherbacks using the Northeast Ecological Corridor, and extending at least to the hundred fathom contour, or 9 nautical miles offshore, whichever is further, and including the existing marine extensions of Espiritu Santo, Cabezas the San Juan, and Arrecifes de la Cordillera Nature Reserves.'' The petition also stated that these near shore waters ''provide room for turtles to mate and access the beaches, and for hatchlings and adults to leave the beaches.'' We found that the petition did not present substantial scientific information indicating that the petitioned revision may be warranted, in part because in our judgment specific qualities were required to explain how the proposed open space features in the marine environment off of Puerto Rico are essential to the leatherback's conservation, and how or why the features themselves may require special management considerations or protection (75 FR 41,436; July 16, 2010).

Sierra Club submitted a second petition on November 3, 2010, that contained additional information and incorporated the earlier petition by reference. The petition describes the area as containing the following three essential features (which the petitioner refers to as primary constituent elements (PCEs):

(i) Migratory pathway conditions to allow for safe and timely passage and access to/from/within nesting sites at San Miguel, Paulinas, and Convento Beaches in the Northeast Ecological Corridor of Puerto Rico.

(ii) Migratory pathway conditions and open ocean conditions to allow for safe and timely passage and access to/from/within breeding sites offshore of the nesting sites at San Miguel, Paulinas, and Convento Beaches in the Northeast Ecological Corridor of Puerto Rico.

(iii) Water quality to support normal growth, reproduction, development, viability, and health.

The petition also describes the minimum requested boundaries of the critical habitat by the following coordinates:

(1) 65.807° W, 18.425° N
(2) 65.697° W, 18.601° N
(3) 65.489° W, 18.581° N
(4) 65.435° W, 18.400° N
(5) 65.631° W, 18.276° N

The petition states that the identified coastal waters must be designated as critical habitat to ''provide room for turtles to mate and access the beaches, and for hatchlings and adults to leave the beaches.'' The petition also cites our proposed rule to designate critical habitat for leatherback sea turtles in the Pacific Ocean (75 FR 319; January 5, 2010) as support for the existence of similar essential features off of Puerto Rico. Specifically, the petition states that the ''migratory pathway conditions to allow for safe and timely passage and access to/from/within high use foraging areas'' in that proposed rule are ''for all intents and purposes, identical to the area 'sufficient to protect leatherbacks using the Northeast Ecological Corridor' which the Sierra Club identified.'' The petition provides information on adult leatherback use of the petitioned area consisting of satellite tagging data from 1998–2003 on 10 turtles. On May 5, 2011, we published our determination that the second petition presented substantial information indicating that the revision may be warranted and that further review was required to determine how to proceed with the petition (76 FR 25660).

**Analysis of the Petition**

The ESA provides us with broad discretion with respect to revising designated critical habitat, allowing us to determine when revisions are appropriate and how to respond to petitions to revise critical habitat designations. Consideration of the following threshold factors was determinative in our decision on how to proceed with Sierra Club's petition: whether the petitioned areas meet the definition of critical habitat under the ESA and if so, the potential conservation benefit of the petitioned revision; and the time required to complete a revision and how that might impact other ongoing or planned conservation activities that would also benefit leatherbacks.

We first considered whether the available information for leatherbacks indicates that areas petitioned contain discernible physical or biological features that are essential to the leatherback's conservation and which may require special management considerations or protection. In other words, we looked at whether the petitioned area meets the ESA's definition of critical habitat in section 3(5)(A). As discussed in further detail below, we determined that there is insufficient information to adequately identify essential features within the area petitioned for leatherbacks.

Of the three proposed essential features in the petition, two consist of ''migratory pathway conditions,'' to, from and within nesting and breeding sites respectively. Sierra Club's argument for designation of these essential features is based largely on adult leatherback presence in those waters and general information on what the leatherbacks may be doing in those areas, rather than on any specific qualities of the physical and biological features of the habitat. According to the petitioner, the request for revision ''focuses on protecting migration space, here to allow leatherbacks to reach the Corridor nesting beaches. Because, as NOAA acknowledges, leatherbacks appear to mate 'in areas adjacent to nesting beaches,' it also seeks to protect space for these activities.'' The petition then cites 50 CFR 424.12(b), which states that NMFS ''shall consider sites for breeding, reproduction, [and] rearing of offspring as critical habitat.'' As further support for designation of the ''migratory pathway'' features, the petition draws an analogy with one of the essential features in the proposed critical habitat designation for leatherback sea turtles in the Pacific Ocean (75 FR 319,330; January 5, 2010).

In the proposed designation of critical habitat in the Pacific Ocean, we identified ''migratory pathway conditions to allow for safe and timely passage and access to/from/within high use foraging areas'' as an essential feature. This essential feature was proposed in recognition of the fact that in order to complete their life history leatherback turtles must migrate through the offshore areas to access nearshore foraging areas. However, the ''migratory pathway conditions'' essential feature was removed from the final rule designating critical habitat for leatherback sea turtles in the Pacific Ocean (77 FR 4170; January 26, 2012). We concluded in the final rule that without further data regarding specific, geographically defined migratory corridors or the biological or physical features influencing migration to, from and among forage areas, we could not identify specific migratory conditions in any area under consideration. Based on a lack of information received, and on peer review and other comments, we found that there was insufficient information to produce a reasonable description of the physical and biological feature(s) itself, allow a reasonable demonstration of how the feature is essential to conservation of the leatherback sea turtle, provide an effective basis for identifying ''specific

areas'' on which the feature is found, or inform our identification of the types of activities that might presently or prospectively pose a threat to the feature such that special management consideration or protections might be necessary. Similar considerations led to our determination not to proceed with Sierra Club's petition, as discussed below.

In their petition, Sierra Club identifies an area off of a known nesting beach, delineated by the presence of tagged individual turtles, and states the general understanding in the scientific community that leatherbacks mate off of or near nesting beaches, and therefore concludes that the space within the delineated area is an essential feature. We reviewed the available satellite tag data, which demonstrate that there is some leatherback use of the waters in the area, as would be expected given the proximity to a nesting beach and leatherback use of Caribbean waters in general. Sierra Club states that the data, from 10 total turtles over a 5-year period, show that areas in the vicinity of nesting beaches constitute areas occupied by turtles during the internesting period. Sierra Club's comment in the petition (footnote 9, page 7) that ''nesting and monitoring data show that leatherbacks shift between the Corridor and Culebra beaches indicating that ''the utilization area is probably broader than these data suggests, extending to embrace both regions,'' indicates that leatherback nest site fidelity is not fixed and that internesting areas are not confined to the waters immediately off the nesting beach. A review of satellite tracking research by Godley *et al.* (2008) and the studies they cited, demonstrates that leatherback sea turtles, more so than the hardshell sea turtle species, often use extensive areas between each nesting activity (Eckert, 2006; Eckert *et al.,* 2006; Georges *et al.,* 2007; Hitipeuw *et al.,* 2007), thus also raising questions about the importance of the petitioned area as internesting habitat. Leatherback internesting movements, in fact, can cover continental shelf waters over several hundred kilometers (Keinath and Music, 1993), increasing the difficulty of discerning what physical or biological features are associated with the interesting stage or interesting behaviors or needs. Witt *et al.* (2008) specifically cites the wide-ranging internesting movements of leatherbacks as a significant impediment to designing effective marine protected areas or other protective measures for leatherback rookeries. Most importantly, while providing occurrence and movement information, the available data do not indicate whether there are any physical or biological features in the petitioned areas with specific, defining qualities, parameters or values that help explain how or why any such features are essential to the leatherback's conservation. All the space within an area delineated by the presence of tagged adult turtles does not necessarily meet the ESA's definition of critical habitat. As with the adult leatherbacks, the petition does not indicate what specific feature of the habitat utilized by hatchlings is essential to the leatherback's conservation and may require special management considerations or protections, and thus would constitute critical habitat.

As support for the third proposed essential feature, ''water quality to support normal growth, reproduction, development, viability, and health,'' the petitioner cites the prevalence of marine debris ingestion by leatherbacks, along with preliminary data showing that some leatherbacks have high organochlorine and heavy metal concentrations, and speculation that low hatching success on a French Guiana beach may be explained by high levels of organochlorines found in the sand. While this information indicates that pollutants and contaminants can cause harm to leatherbacks, it does not describe parameters of water quality itself that are needed for the conservation of leatherback sea turtles: we currently lack information to determine the relative impact and importance of water quality directly on the behavior, growth or health of leatherback sea turtles. We also note that habitats used for internesting activities off nesting beaches like those in the petition are not long-term residence habitats nor do they serve as important foraging grounds (if any foraging occurs at all), and therefore the petitioned area would not constitute an area of significant exposure to such contaminants. While ingestion of marine debris and potential chemical pollutant accumulation is a recognized source of adverse impacts to leatherbacks, they are a wide ranging species. The problem is more one of accumulation throughout their life cycle, especially from foraging on prey that has accumulated the pollutants, and not short-term exposure in any given location.

The existence of leatherback sea turtles in the waters of the Northeast Ecological Corridor is not, in and of itself, a physical and biological feature essential to the conservation of the species. The petition does not indicate the specific, identifiable habitat features of these waters that are essential to the leatherback sea turtle's conservation, other than their proximity to the nesting beach and the need for ''room'' to travel, nor does it identify how any such specific features may require special management considerations or protection. Given these shortcomings in meeting the ESA's definition of critical habitat, we also concluded that little conservation benefit to leatherback sea turtles would result from accepting Sierra Club's petition; for example, the lack of distinct essential habitat features would not provide a basis for meaningful analysis of future federal actions under section 7 of the ESA. In light of these factors, we do not believe that dedication of ESA program time and resources to further work on Sierra Club's petition is appropriate. Further work on this petition would divert resources from ongoing work expected to provide significant benefits to sea turtle species including leatherbacks, such as ongoing scoping and rulemaking to reduce turtle capture and mortality in a variety of fisheries.

## How We Intend To Proceed With the Petitioned Revision of Critical Habitat

Based on our review as summarized above, we have decided to deny the petition. However, we and the USFWS have planned to jointly conduct a series of status reviews for each listed sea turtle (except Kemp's ridley). As part of these reviews, we will consider whether designation or revision of critical habitat (as applicable to the species) is an appropriate exercise of our discretion to take these actions. However, should the listing classification for leatherbacks be changed through rulemaking subsequent to the status review to include distinct population segments, we would be required to designate critical habitat to the maximum extent prudent and determinable. Conducting a review of critical habitat for leatherback sea turtles in this context will allow a more holistic, thorough examination of all in-water habitats to identify appropriate critical habitat across the species' range.

## References Cited

A complete list of references cited is available upon request from the NMFS Southeast Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authority:** The authority for this action is the ESA, as amended (16 U.S.C. 1533 *et seq.*).

Dated: May 30, 2012.

**Alan D. Risenhoover,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2012–13528 Filed 6–1–12; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[Docket No. 120417412–2412–01]**

**RIN 0648–XCO36**

## Accountability Measures for the Recreational Sector of Gray Triggerfish in the Gulf of Mexico for the 2012 Fishing Year

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements accountability measures (AMs) for the recreational sector of gray triggerfish in the Gulf of Mexico (Gulf) for the 2012 fishing year through this final temporary rule. Based on the projected recreational landings estimates, NMFS determined that the recreational annual catch target (ACT) for Gulf gray triggerfish will be met by June 11, 2012. Therefore, NMFS closes the recreational sector for Gulf gray triggerfish on June 11, 2012, and it will remain closed through December 31, 2012. This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

**DATES:** This rule is effective 12:01 a.m., local time on June 11, 2012, until 12:01 a.m., local time on January 1, 2013.

**ADDRESSES:** Electronic copies of documents supporting the final temporary rule implementing gray triggerfish management measures (77 FR 28308, May 14, 2012), which include a draft environmental impact statement and a regulatory flexibility analysis, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, telephone: 727–824–5305 or email: *Peter.Hood@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

### Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to end overfishing of stocks and to minimize bycatch and bycatch mortality to the extent practicable. To accomplish this, the Magnuson-Stevens Act implemented new requirements that annual catch limits (ACLs) and AMs be established to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur.

The Southeast Data, Assessment, and Review (SEDAR) completed a benchmark stock assessment for gray triggerfish in 2006 (SEDAR 9). SEDAR 9 indicated that the gray triggerfish stock was both overfished and possibly undergoing overfishing. Subsequently, Amendment 30A to the FMP established a gray triggerfish rebuilding plan beginning in the 2008 fishing year (73 FR 38139, July 3, 2008). In 2011, a SEDAR update stock assessment for gray triggerfish determined that the gray triggerfish stock was still overfished and was additionally undergoing overfishing. The 2011 SEDAR update stock assessment indicated the 2008 gray triggerfish rebuilding plan had not made adequate progress toward ending overfishing and rebuilding the stock as described in the rebuilding plan in Amendment 30A to the FMP.

The Council is developing more permanent measures to end overfishing and rebuild the gray triggerfish stock in Amendment 37 to the FMP. However, these measures will not likely be implemented until the end of the 2012 fishing year or at the beginning of the 2013 fishing year. Therefore, on May 14, 2012, NMFS published a final temporary rule to reduce overfishing of gray triggerfish on an interim basis (77 FR 28308). The final temporary rule is effective May 14, 2012, through November 10, 2012.

In Amendment 30A to the FMP, the Council established a 21 percent commercial and 79 percent recreational allocation of the gray triggerfish ABC. These allocations were used to set the commercial and recreational sector-specific ACLs. The acceptable biological catch (ABC) recommended by the Council's Scientific and Statistical Committee (SSC), after their review of the 2011 update assessment, was 305,300 lb (138,482 kg), round weight. Based on the allocations established in Amendment 30A to the FMP, the final temporary rule set, on an interim basis, a reduced commercial ACL of 64,100 lb (29,075 kg), round weight, and a reduced recreational ACL of 241,200 lb (109,406 kg), round weight.

NMFS applied the Council's ACL/ACT control rule to the sector-specific ACLs to set the sector-specific ACTs as described in the final temporary rule. Therefore, on an interim basis, the final temporary rule set the commercial ACT (commercial quota) at 60,900 lb (27,624 kg), round weight, and the recreational ACT at 217,100 lb (98,475 kg), round weight.

To reduce the risk of overfishing, Amendment 30A to the FMP established gray triggerfish post-season AMs. The regulations at 50 CFR 622.49(a)(2)(ii), stated that if the recreational ACL of 457,000 lb (207,291 kg) was exceeded, NMFS would reduce the length of the following year's fishing season by the amount necessary to ensure that recreational landings did not exceed the recreational ACT during the following year. Recreational landings were to be evaluated relative to the ACL based on a 3-year running average of landings, as described in the FMP. The recreational ACL for 2010 and 2011 was 457,000 lb (207,291 kg). The recreational ACT for 2010 and 2011 was 405,000 lb (183,705 kg). The 2011 ACL was exceeded by 4,549 lb (2,063 kg). Recreational landings were compared to a 3-year running average (as described in the FMP) relative to the ACL, and for 2011, average landings for 2009–2011 were used. Despite the overage in 2011, average landings for 2009–2011 (384,910 lb (174,592 kg)) were below the 457,000 lb (207,291 kg) ACL, and AMs were not triggered.

Based on recent trends in recreational landings and anticipated future recreational effort, the Council and NMFS determined that there is a reasonable probability that the recreational sector will exceed its ACL in future years. Therefore, the final temporary rule established an in-season AM for the recreational sector to

prohibit the recreational harvest of gray triggerfish (a recreational sector closure) if the recreational ACT is reached or projected to be reached. This in-season AM is intended to provide an additional level of protection to ensure that the recreational ACL is not exceeded and that the risk of overfishing will be reduced. The final temporary rule also implemented a post-season AM, similar to the post-season AM in Amendment 30A, except in the final temporary rule, the ACL overage is based on a single year of landings instead of a 3-year running average.

Based on the 2012 projected recreational landings estimates, the recreational ACT for Gulf gray triggerfish will be met by June 11, 2012. Therefore, NMFS implements the in-season AM and will close the recreational sector for Gulf gray triggerfish on June 11, 2012. The recreational sector will remain closed through December 31, 2012. This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

## Classification

This action responds to the best scientific information available. The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.49(a)(17)(ii) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. The AMs state that NMFS will file a notification with the Office of the Federal Register to close the recreational sector for Gulf gray triggerfish for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACT specified in 50 CFR 622.49(a)(17)(ii). All that remains is to notify the public of the reduced recreational fishing season for gray triggerfish for the remainder of the fishing year. Additionally, there is a need to immediately notify the public of the reduced recreational fishing season for gray triggerfish, since gray triggerfish are overfished and undergoing overfishing and this waiver will help further protect the Gulf gray triggerfish resource.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the gray triggerfish resource. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota. Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations, book trips for clients in advance and, therefore need as much time as possible to adjust business plans to account for the reduced recreational fishing season.

For the aforementioned reasons, the Assistant Administrator, NMFS, also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: May 30, 2012.

**Carrie Selberg,**

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

[FR Doc. 2012–13463 Filed 5–30–12; 4:15 pm]

**BILLING CODE 3510–22–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[Docket No. 0907271173–0629–03]**

**RIN 0648–XC025**

## Snapper-Grouper Fishery of the South Atlantic; 2012 Recreational Accountability Measure and Closure for South Atlantic Golden Tilefish

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements accountability measures (AMs) for the recreational sector of golden tilefish in the South Atlantic for the 2012 fishing year through this temporary rule. Average recreational landings from 2010 and 2011 exceeded the recreational annual catch limit (ACL) for golden tilefish. To account for this overage and to prevent an overage in 2012, this rule reduces the length of the 2012 recreational fishing season and NMFS closes the recreational sector for golden tilefish on June 8, 2012. This closure is necessary to protect the golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, June 8, 2012, until 12:01 a.m., local time, January 1, 2013.

**ADDRESSES:** Copies of the final rule for Amendment 17B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), (Amendment 17B), the Environmental Assessment for Amendment 17B, and other supporting documentation may be obtained from Catherine Bruger, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone: 727–824–5305.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone: 727–824–5305, fax: 727–824–5308, email: *Catherine.Bruger@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic, which includes golden tilefish, is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

## Background

The 2006 reauthorization of the Magnuson-Stevens Act implemented new requirements that ACLs and AMs be established to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur.

The final rule for Amendment 17B established ACLs for eight snapper-grouper species in the FMP undergoing overfishing, including golden tilefish, and AMs to be implemented if these ACLs are reached or exceeded (75 FR 82280, December 30, 2010).

The recreational ACL for golden tilefish, implemented through Amendment 17B, is 1,578 fish. In accordance with regulations at 50 CFR 622.49(b)(1)(ii), if the ACL is exceeded, the Assistant Administrator, NMFS (AA) will file notification with the Office of the Federal Register to reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the recreational sector ACL in the following fishing year. Additionally, in accordance with these regulations, the average of 2010 and 2011 recreational landings are compared to the ACL. Finalized landings data from the NMFS Southeast Fisheries Science Center

indicate that the recreational golden tilefish ACL was exceeded by 2,805 fish in 2010 and by 8,286 fish in 2011. Therefore, this temporary rule implements an AM to reduce the fishing season for the recreational golden tilefish component of the snapper-grouper fishery in 2012. NMFS used the average landings from the 2010 and 2011 fishing years (5,546 fish) to determine a reduced recreational season for the 2012 fishing year. Only the first two months of Marine Recreational Fisheries Statistical Survey (MRFSS) data were available for 2012, with reported landings of 1,012 fish. Because average 2010 and 2011 landings exceeded the ACL, and 2012 landings are extremely close to the ACL after only two months, AMs require the season to be shortened to prevent the ACL from being exceeded. As a result of this reduced season, the recreational sector for golden tilefish will be closed effective 12:01 a.m., local time June 8, 2012.

During the closure, the bag and possession limit for golden tilefish in or from the South Atlantic exclusive economic zone is zero. The recreational sector for golden tilefish will reopen on January 1, 2013, the beginning of the 2013 recreational fishing season.

**Classification**

The Regional Administrator, Southeast Region, NMFS, (RA) has determined this temporary rule is necessary for the conservation and management of the South Atlantic golden tilefish component of the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under § 622.49(b)(1)(ii) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the AMs established by Amendment 17B and located at 50 CFR 622.49(b)(1)(ii) have already been subject to notice and comment and authorize the AA to file a notification with the Office of the Federal Register to reduce the duration of the recreational fishing season the following fishing year if an overage occurs. All that remains is to notify the public of the reduced recreational fishing season for golden tilefish for the 2012 fishing year. Additionally, there is a need to immediately notify the public of the reduced recreational fishing season for golden tilefish for the 2012 fishing year, to prevent further golden tilefish recreational harvest and prevent the ACL from being exceeded, which will protect the South Atlantic golden tilefish resource. Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations, book trips for clients in advance and, therefore need as much time as possible to adjust business plans to account for the reduced recreational fishing season.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: May 30, 2012.

**James P. Burgess,**

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

[FR Doc. 2012–13464 Filed 5–30–12; 4:15 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 77, No. 107
Monday, June 4, 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 ENERGY

### 10 CFR Part 431

**[Docket No. EERE–2010–BT–STD–0048]**

**RIN 1904–AC04**

### Energy Conservation Standards for Distribution Transformers: Public Meeting and Availability of Supplementary Analysis

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of public meeting and availability of documentation.

**SUMMARY:** The U.S. Department of Energy (DOE or Department) will hold a public meeting to discuss additional information that it is making available about the liquid-immersed distribution transformer equipment classes that were analyzed in a previously issued notice of proposed rulemaking (NOPR). Specifically, DOE is supplementing the NOPR analysis to include additional trial standard levels (TSLs) that embody separate equipment classes for several different types of liquid-immersed distribution transformers. In addition to this notice and the public meeting, DOE has several documents and analytical tools available to interested parties on its Web site. The documents describe the technical information in more detail and the software modeling tools that can be used by interested parties to evaluate how this information affects the results of certain aspects of DOE's key economic analyses. Through this notice and public meeting, DOE invites comment, data, and information about the considered equipment classes and their effects on DOE's analysis, results, and (TSLs).

**DATES:** DOE will hold a public meeting on June 20, 2012, from 9 a.m. to 1 p.m. in Washington, DC. Additionally, DOE plans to allow for participation in the public meeting via webinar. DOE will accept comments, data, and other information regarding this information before and after the public meeting, but not later than June 29, 2012. See section II, ''Public Participation,'' of this notice of public meeting (NOPM) for details.

**ADDRESSES:** To inform interested parties and facilitate this process, DOE is preparing an agenda, a summary of analysis performed, and briefing materials, which will be available on the program Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/distribution_transformers.html.*

The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please note that any foreign national who wishes to participate in the public meeting is subject to advance security screening procedures that require early notice prior to attending the public meeting. Any foreign national who wishes to participate in the public meeting, must so inform DOE as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945, so that the necessary procedures can be completed.

Interested persons may submit comments, identified by docket number EERE–2010–BT–STD–0048 or regulation identifier number (RIN) 1904–AC04, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: DistributionTransformers-2010-STD-0048@ee.doe.gov.* Include the docket number EERE–2010–BT–STD–0048 and/or RIN 1904–AC04 in the subject line of the message.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Public Meeting for Distribution Transformers, EERE–2010–BT–STD–0048, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. If possible, please submit all items on a compact disk (CD). It is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD. It is not necessary to include printed copies.

*Docket:* The docket is available for review at *www.regulations.gov* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents and materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The *www.regulations.gov* Web site will contain instructions on how to access all documents in the docket, including public comments.

The rulemaking Web site can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/distribution_transformers.html.* This Web site contains a link to the docket for this notice on *www.regulations.gov.*

For detailed instructions on submitting comments and additional information on the rulemaking process, see section II, ''Public Participation,'' of this document.

For further information on how to submit a comment, review other public comments in the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information to Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–8654. Email: *jim.raba@ee.doe.gov.*

In the Office of General Counsel, contact Mr. Alan Strasser, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–8269, *alan.strasser@hq.doe.gov.*

For information on how to submit or review public comments, and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

On February 10, 2012, DOE published a NOPR that proposed revised energy conservation standards for distribution transformers (77 FR 7282). On February 23, 2012, DOE held a public meeting to present the amended standards proposed in the NOPR and receive feedback on them and the underlying analyses.

In the NOPR and at the public meeting DOE asked for comment on whether certain types of liquid-immersed distribution transformers that are currently part of the same equipment classes warranted separation into distinct equipment classes. For example, pole- and pad-mounted distribution transformers are in the same equipment class and DOE asked for comment on whether they would be more appropriately evaluated as separate equipment classes.

A number of interested parties submitted written comments supporting an approach that separated pole- and pad-mounted liquid-immersed distribution transformers into separate equipment classes. Furthermore, many interested parties also urged DOE to consider separate equipment classes for network and vault distribution transformers, as well as those with basic impulse level (BIL) ratings above 200 kV.

In light of these comments, DOE decided to supplement its NOPR analysis to include several new trial standard levels (TSLs), which consider additional standards scenarios that represent the separate equipment classes that were supported by comments from several interested parties. The new TSLs, lettered ''A'' through ''C,'' contain separate standards for pole- and pad-mounted distribution transformers, and also incorporate the separation of network- and vault-based distribution transformers and distribution transformers with BIL ratings 200 kV and above into separate equipment classes. The new TSLs relate only to liquid-immersed distribution transformers. No modifications have been made to the dry-type distribution transformers analysis for the purposes of this notice and the public meeting.

Furthermore, DOE used these TSLs to supplement certain NOPR analyses, including the life-cycle cost and payback period analysis and provide interested parties with a perspective on how separate equipment classes may alter the analytical results presented with the NOPR. This information, as well as the analytical tools from the NOPR, is available on DOE's distribution transformer rulemaking Web site, located at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/distribution_transformers.html*.

## II. Public Participation

DOE invites input from the public on the supplementary information. The final rule establishing any amended energy conservation standards will contain the final analysis results, including any appropriate revisions following further review and consideration of public comments, and be accompanied by a final rule technical support document (TSD).

DOE encourages those who wish to participate in the public meeting to obtain the TSD from DOE's Web site and to be prepared to discuss its contents. A copy of the TSD is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/dt_nopr_tsd_complete.pdf*.

DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit, in writing, by June 29, 2012, comments and information on matters addressed in the supplementary information and on other matters relevant to consideration of standards for liquid-immersed distribution transformers.

After the public meeting and the closing of the comment period, DOE will consider all timely submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses, and thereafter prepare a final rule.

### *A. Procedure for Submitting Requests To Speak*

Any person who has an interest in today's notice or who is a representative of a group or class of persons that has an interest in these issues may request an opportunity to make an oral presentation. Such persons may hand-deliver requests to speak, along with a computer diskette or compact disk (CD) in WordPerfect, Microsoft Word, portable document format (PDF) file, or American Standard Code for Information Interchange (ASCII) file format to Ms. Brenda Edwards at the address shown in the **ADDRESSES** section at the beginning of this NOPM, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests may also be sent by postal mail to the address shown in the **ADDRESSES** section or by email to *Brenda.Edwards@ee.doe.gov*.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests that each person selected to be heard submit in advance a copy of his or her statement not later than two weeks before the public meeting. At its discretion, DOE may permit a person who cannot supply an advance copy of his or her statement to participate, provided that person has made alternative arrangements in advance with the Building Technologies Program. The person who seeks to give an oral presentation should ask for such alternative arrangements.

### *B. Conduct of Public Meeting*

DOE will designate a DOE official to preside at the public meeting and may also employ a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of the Energy Policy and Conservation Act. (42 U.S.C. 6306) A court reporter will record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal conference style. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within DOE-determined time limits) prior to the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions from DOE and other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may purchase a copy of the transcript from the transcribing reporter.

*C. Submission of Comments*

DOE will accept comments, data, and other information regarding the issues raised in this notice before or after the public meeting, but no later than the date provided at the beginning of this notice. Please submit comments, data, and other information as provided in the **ADDRESSES** section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the docket number EERE–2010–BT–STD–0048 and/or RIN 1904–AC04 and wherever possible carry the electronic signature of the author. No telefacsimilies (faxes) will be accepted.

According to Title 10 of the Code of Federal Regulations, section 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

## III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice.

Issued in Washington, DC, on May 29, 2012.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy, Energy Efficiency and Renewable Energy.*

[FR Doc. 2012–13401 Filed 6–1–12; 8:45 am]

**BILLING CODE 6450–01–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0491; Directorate Identifier 2011–NM–265–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–100, –200, and –200C series airplanes. This proposed AD was prompted by a report of a severed upper butt strap, and cracks in the forward skin and bonded doubler, on one airplane. This proposed AD would require repetitive inspections for cracks and a chemical spot test in the area of station (STA) 908, and related investigative and corrective actions, if necessary. For certain airplanes, this proposed AD would require an inspection and modification. We are proposing this AD to prevent cracks at the adjacent mating skins (forward and aft), which could initiate just above stringers S–4R and S–4L; and could grow and result in a decompression event.

**DATES:** We must receive comments on this proposed AD by July 19, 2012.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356. For information on the availability of this material at the FAA, call (425) 227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket 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 (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6447; fax: (425) 917–6590; email: *wayne.lockett@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0491; Directorate Identifier 2011–NM–265–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://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

We received a report of a severed upper butt strap, and cracks in the forward skin and bonded doubler, on

one airplane. Lab analysis of the upper butt strap identified 7075–T6 alloy, instead of the required 2024–T3 clad material. The airplane had accumulated approximately 61,000 total flight cycles and 58,000 total flight hours. The skin crack was found just above a previously installed lap joint modification. Such cracks, if not detected and corrected, could result in cracks at the adjacent mating skins (forward and aft), which could initiate just above stringers S–4R and S–4L; and could grow and result in a decompression event.

**Relevant Service Information**

We reviewed Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2012–0491.

**FAA's Determination**

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require repetitive inspections (detailed, external low frequency eddy current (LFEC), or internal LFEC) for cracks and a chemical spot test in the area of STA 908, and related investigative and corrective actions, if necessary. Related investigative actions include a detailed inspection for corrosion of the skin, skin doubler, and lower butt strap; an open-hole high frequency eddy current (HFEC) inspection for cracks of the skin, skin doubler, lower butt strap, and stringer splices; and an open-hole HFEC for cracks of the STA 908 upper butt strap. Corrective actions involve repairing, installing a new stringer splice; and installing a new STA 908 upper butt strap.

For airplanes having line numbers 1 through 291, this proposed AD would require actions (inspection and modification) done in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO).

**Differences Between the Proposed AD and the Service Information**

The service information specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

In addition, Boeing has not provided specific procedures for airplanes having line numbers 1 through 291, but indicates to contact Boeing for instructions ''before further flight.'' The FAA is aware that only one of these airplanes is currently in operation, and it is a test bed airplane that is not used for revenue flights. This proposed AD requires operators to inspect and modify, as required, in accordance with a method approved by the Manager, Seattle ACO, within 120 days.

**Costs of Compliance**

We estimate that this proposed AD affects 61 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection and test ..... | 166 work-hours × $85 per hour = $14,110 per inspection cycle. | $0 | $14,110 per inspection cycle. | $860,710 per inspection cycle. |

In addition, we have received no definitive data that would enable us to provide cost estimates for the actions that would be required for Group 1 airplanes.

We estimate the following costs to do any necessary related investigative actions, repairs, and installations that would be required based on the results of the proposed inspection and test. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Related investigative actions, repair, installation ..... | 173 work-hours × $85 per hour = $14,705 ..... | $0 | $14,705 |

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

**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 airworthiness directive (AD):

**The Boeing Company:** Docket No. FAA–2012–0491; Directorate Identifier 2011–NM–265–AD.

**(a) Comments Due Date**

We must receive comments by July 19, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 737–100, –200, and 200C series airplanes; certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011.

**(d) Subject**

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53; Fuselage.

**(e) Unsafe Condition**

This AD was prompted by a report of a severed upper butt strap, and cracks in the forward skin and bonded doubler, on one airplane. We are issuing this AD to prevent cracks at the adjacent mating skins (forward and aft), which could initiate just above stringers S–4R and S–4L; and could grow and result in a decompression event.

**(f) Compliance**

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

**(g) Actions for Group 1 Airplanes**

For Group 1 airplanes, as identified in Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011: Within 120 days after the effective date of this AD, inspect and modify, as required, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

**(h) Actions for Groups 2 and 3 Airplanes**

For Groups 2 and 3 airplanes, as identified in Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011: Except as provided by paragraph (i)(1) of this AD, at the applicable times identified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, except as provided by paragraph (i)(2) of this AD.

(1) Do one of the inspection options identified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD; and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions before further flight.

(i) Inspection Option 1: Do a detailed inspection for cracks of the station (STA) 908 forward and aft skin. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles until the chemical spot test required by paragraph (h)(2) of this AD is done.

(ii) Inspection Option 2: Do a one-time external low-frequency eddy current (LFEC) inspection for cracks of the STA 908 upper butt strap.

(iii) Inspection Option 3: Do a one-time internal LFEC inspection for cracks of the STA 908 upper butt strap.

(2) Do a chemical spot test of the STA 908 upper butt strap to determine the part material, and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions at the times specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, except as provided by paragraph (i)(1) of this AD. Confirming the upper butt strap is made from 2000 series aluminum terminates the inspections required by paragraph (h)(1) of this AD.

**(i) Exceptions to the Service Information**

(1) Where Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, specifies a compliance time ''after the original issue date of the service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

**(j) Terminating Action**

Replacing the STA 908 upper butt strap and doing all applicable related investigative and corrective actions, in accordance with Part 4, Part 5, and Part 6, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, except as provided by paragraph (i)(2) of this AD, terminates the inspections and chemical spot test required by this AD.

**(k) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(l) Related Information**

(1) For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6447; fax: (425) 917–6590; email: *wayne.lockett@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may also review the referenced service information in the docket at *www.regulations.gov* (refer to Docket No. FAA–2012–0491. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

Issued in Renton, Washington, on May 18, 2012.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–13439 Filed 6–1–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2012–0384; Airspace Docket No. 12–ANM–9]**

## Proposed Amendment of Class D and E Airspace; Lewiston, ID

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify Class E airspace at Lewiston-Nez Perce County Airport, Lewiston, ID. Controlled airspace is necessary to accommodate aircraft using Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Lewiston-Nez Perce County Airport, Lewiston, ID. The geographic coordinates of the airport and navigation aids also would be adjusted in the respective Class D and Class E airspace areas. The FAA is proposing this action to enhance the safety and management of aircraft operations at Lewiston-Nez Perce County Airport, Lewiston, ID.

**DATES:** Comments must be received on or before July 19, 2012.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2012–0384; Airspace Docket No. 12–ANM–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2012–0384 and Airspace Docket No. 12–ANM–9) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2012–0384 and Airspace Docket No. 12–ANM–9''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

### The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Lewiston-Nez Perce County Airport, Lewiston, ID, to accommodate aircraft using RNAV (GPS) standard instrument approach procedures at the airport. Also, the geographic coordinates of the airport, the Nez Perce VOR/DME, and the Lewiston-Nez Perce ILS Localizer navigation aids, would be updated to coincide with the FAA's aeronautical database for the respective Class D airspace and Class E airspace areas. This action would enhance the safety and management of aircraft operations at Lewiston-Nez Perce County Airport, Lewiston, ID.

Class D and E airspace designations are published in paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR Part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's

authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify controlled airspace at Lewiston-Nez Perce County Airport, Lewiston, ID.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

*Paragraph 5000 Class D airspace.*

* * * * *

**ANM ID D Lewiston, ID [Modified]**

Lewiston-Nez Perce County Airport, ID
(Lat. 46°22′28″ N., long. 117°00′55″ W.)

That airspace extending upward from the surface to and including 3,900 feet MSL within a 4.1-mile radius of the Lewiston-Nez Perce County Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6002 Class E airspace designated as surface areas.*

* * * * *

**ANM ID E2 Lewiston, ID [Modified]**

Lewiston-Nez Perce County Airport, ID
(Lat. 46°22′28″ N., long. 117°00′55″ W.)

Within a 4.1-mile radius of the Lewiston-Nez Perce County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6004 Class E airspace designated as an extension to a Class D surface area.*

* * * * *

**ANM ID E4 Lewiston, ID [Modified]**

Lewiston-Nez Perce County Airport, ID
(Lat. 46°22′28″ N., long. 117°00′55″ W.)
Nez Perce VOR/DME
(Lat. 46°22′54″ N., long. 116°52′10″ W.)
Lewiston-Nez Perce ILS Localizer
(Lat. 46°22′27″ N., long. 117°01′54″ W.)

That airspace extending upward from the surface within 2.7 miles each side of the Lewiston-Nez Perce ILS localizer course extending from the 4.1-mile radius of the airport to 14 miles east of the airport and within 3.5 miles each side of the Nez Perce VOR/DME 266° radial extending from the 4.1-mile radius of the airport to 13.1 miles west of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ANM ID E5 Lewiston, ID [Modified]**

Lewiston-Nez Perce County Airport, ID
(Lat. 46°22′28″ N., long. 117°00′55″ W.)
Walla Walla VOR/DME
(Lat. 46°05′13″ N., long. 118°17′33″ W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 46°33′00″ N., long. 117°38′00″ W.; to lat. 46°31′30″ N., long 117°14′00″ W.; to lat. 46°40′00″ N., long. 116°48′00″ W.; to lat. 46°26′00″ N., long. 116°26′00″ W.; to lat. 46°13′00″ N., long. 116°30′00″ W.; to lat. 46°14′00″ N., long. 116°35′00″ W.; to lat. 46°06′00″ N., long. 116°47′00″ W.; to lat. 46°17′00″ N., long. 116°49′00″ W.; to lat. 46°18′00″ N., long 117°00′00″ W.; to lat. 46°17′30″ N., long. 117°22′00″ W.; to lat. 46°10′30″ N., long. 117°26′30″ W.; to lat. 46°12′00″ N., long. 117°36′00″ W.; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 46°00′00″ N., long. 116°00′04″ W.; to lat. 46°00′00″ N., long. 116°19′00″ W.; to lat. 45°39′00″ N., long. 116°10′03″ W.; to lat. 45°30′00″ N., long. 116°14′03″ W.; to lat. 45°23′00″ N., long. 116°21′03″ W.; to lat. 45°25′00″ N., long. 116°34′04″ W.; to lat. 45°30′00″ N., long. 116°46′04″ W.; to lat. 46°00′00″ N., long. 116°56′04″ W.; thence west along lat. 46°00′00″ N., to the Walla Walla VOR/DME 16.6-mile radius, thence counter clockwise along the Walla Walla VOR/DME 16.6-mile radius until intercepting V–536, thence northeast along V–536 and southeast along V–2 until intercepting long. 115°15′04″ W.; thence south along long. 115°15′04″ W., until intercepting V–187; thence southeast along V–187 until intercepting long. 116°00′00″ W.; thence south along long. 116°00′00″ W.; to lat. 46°15′00″ N.; to lat. 46°00′00″ N., long. 115°50′00″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on May 23, 2012.

**John Warner**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2012–13365 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**[FWS–R8–ES–2012–0026; 92220–1113–0000–C5]**

## Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist or Reclassify From Endangered to Threatened Six California Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to delist the Inyo California towhee (*Pipilo crissalis eremophilus*), and to reclassify from endangered to threatened the arroyo toad (*Anaxyrus californicus*), Indian Knob mountainbalm (*Eriodictyon altissimum*), Lane Mountain milk-vetch (*Astragalus jaegerianus*), Modoc sucker (*Catostomus microps*), and Santa Cruz cypress (*Cupressus abramsiana*) under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this notice, we are initiating status reviews of these taxa to determine if the respective actions of delisting and reclassifying are warranted. Section 4(c)(2)(A) of the Act also requires a status review of listed species at least once every 5 years. The status reviews we are initiating will also fulfill the requirements of section 4(c)(2) of the Act. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species and subspecies. Based on these status reviews, we will issue 12-month

findings for each of the species in the petition, which will address whether the petitioned actions are warranted under section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before August 3, 2012. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

**ADDRESSES:** You may submit information by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* In Search field, enter the Docket number for this finding, which is FWS–R8–ES–2012–0026. Then click the Search button. You should then see an entry for this document that includes a button that reads, ''Comment Now!'' Please ensure that you have found the correct rulemaking before submitting your comment. If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

• *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R8–ES–2012–0026; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

After August 3, 2012, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT**). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Modoc sucker, contact Laurie Sada, Field Supervisor, by mail at U.S. Fish and Wildlife Service, Klamath Falls Fish and Wildlife Office, 1936 California Avenue, Klamath Falls, OR 97601; by telephone at 541–885–8481; or by facsimile at 541–885–7837.

For information regarding the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, or Santa Cruz cypress, contact Diane Noda, Field Supervisor, by mail at U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road Suite B, Ventura, CA 93003; by telephone at 805–644–1766; or by facsimile at 805–644–3958. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Request for Information

When we make a finding that a petition presents substantial information indicating that delisting or reclassifying a species may be warranted, we are required to promptly review the status of the species (status review). For the status reviews to be complete and based on the best available scientific and commercial information, we request information on the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, their habitats, or both.

(2) The factors that are the basis for making a listing, delisting, or downlisting determination for a species under section 4(a) of the Act, as amended (16 U.S.C. 1531 *et seq.*):

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; and

(e) Other natural or manmade factors affecting its continued existence.

Please include sufficient information with your submission (such as references to scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, cannot be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning these status reviews by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions at *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding are available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Klamath Falls or Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

## Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly conduct a species status review, which we

subsequently summarize in our 12-month finding.

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B), to determine on the basis of such a review whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened, or threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress.

*Petition History*

On December 21, 2011, we received a petition dated December 19, 2011, from The Pacific Legal Foundation, requesting the Service to delist the Inyo California towhee, and to reclassify from endangered to threatened the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress, based on the analysis and recommendations contained in the most recent 5-year reviews for these taxa. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a).

*Previous Federal Actions*

Under the Act, we maintain the Lists of Endangered and Threatened Wildlife and Plants at 50 CFR 17.11 (for animals) and 17.12 (for plants) (Lists). We amend the Lists by publishing final rules in the **Federal Register**. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Section 4(c)(2)(B) requires that we determine: (1) Whether a species no longer meets the definition of threatened or endangered and should be removed from the Lists (delisted), (2) whether a species listed as endangered more properly meets the definition of threatened and should be reclassified to threatened (downlisted), or (3) whether a species listed as threatened more properly meets the definition of endangered and should be reclassified to endangered (uplisted). Using the best scientific and commercial data available, we will consider a species for delisting if the data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered recovered; or (3) the original data available when the species was listed, or the interpretation of such data, were in error.

The Inyo California towhee was listed as threatened in 1987, and critical habitat was designated concurrent with the listing (52 FR 28780, August 3, 1987). At the time of listing, this species was classified as the subspecies *Pipilo fuscus eremophilus.* Following the American Ornithologist Union (1989), we now recognize this subspecies as the Inyo California towhee (*P. crissalis eremophilus*). A recovery plan was published for the species in 1998 (Service 1998a). A notice initiating a 5-year review was published for the Inyo California towhee in 2006 (71 FR 14538, March 22, 2006). A 5-year review completed in 2008 recommended that the Inyo California towhee be delisted (74 FR 12878, March 25, 2009; Service 2008a, p. 20).

The arroyo toad was listed as endangered in 1994 (59 FR 64859, December 16, 1994). At the time the species was listed, it was classified as a subspecies (*Bufo microscaphus californicus*) of the southwestern toad (*B. microscaphus*). However, the taxonomy of the arroyo toad was re-examined (Gergus 1998), and as a result, in 2001, the Service formally changed the name on the List of Endangered and Threatened Wildlife to *B. californicus* (66 FR 9414, February 7, 2001). Based on a phylogenetic analysis of comparative anatomical and molecular genetic data for amphibians (Frost *et al.* 2006, p. 363), the Service again formally changed the name on the List to *Anaxyrus californicus* in 2011 (76 FR 7246, February 9, 2011). A recovery plan was published in 1999 (Service 1999). Critical habitat was designated in 2001 (66 FR 9414, February 7, 2001) and revised in 2005 (70 FR 19562, April 13, 2005). Critical habitat was revised a second time in 2011 (76 FR 7246, February 9, 2011). A notice initiating a 5-year review was published in 2008 (73 FR 11945, March 5, 2008), and a 5-year review completed in 2009 recommended that the arroyo toad be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009a, p. 31).

Indian Knob mountainbalm was listed as endangered in 1994 (59 FR 64613, December 15, 1994). Critical habitat has not been designated for this species. A recovery plan was published in 1998 (Service 1998b). A notice of review initiating a 5-year review was published in 2006 (71 FR 14538, March 22, 2006), and a 5-year review completed in 2009 recommended that Indian knob mountainbalm be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009b, p. 15).

Lane Mountain milk-vetch was listed as endangered in 1998 (63 FR 53596, October 6, 1998). In 2005, we completed a critical habitat rulemaking process that resulted in a decision to designate zero (0) acres of critical habitat for this species (70 FR 18220, April 8, 2005). In 2011, we revised the critical habitat designation and designated 14,069 acres (76 FR 29108, May 19, 2011). No recovery plan has been completed for Lane Mountain milk-vetch. A notice initiating a 5-year review was published for the species in 2006 (71 FR 14538, March 22, 2006), and a 5-year review completed in 2008 recommended that Lane Mountain milk-vetch be reclassified to threatened (74 FR 12878, March 25, 2009; Service 2008b, p. 20)).

Modoc sucker was listed as endangered in 1985, and critical habitat was designated concurrent with the listing (50 FR 24526, June 11, 1985). At the time of listing, the Service, the California Department of Fish and Game, and the U.S. Forest Service were developing an ''Action Plan for the Recovery of the Modoc sucker.'' The April 27, 1983, revision of this Plan was formally signed by all participants in 1984 (Service 1984). We determined that the Action Plan and its 1989 revisions adequately fulfilled the requirements of a recovery plan, and in a 1992 memorandum from the Regional Director (Region 1) to the Service's Director, we adopted it as the Recovery Plan for the Modoc sucker (Service 1992). A notice initiating a 5-year review was published for the Modoc sucker in 2006 (71 FR 14538, March 22, 2006), and a 5-year review completed in 2009 recommended that the Modoc sucker be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009c, p. 38).

Santa Cruz cypress was listed as endangered in 1987 (52 FR 675, January 8, 1987), and critical habitat has not been designated. A recovery plan was completed for the species in 1998 (Service 1998c). A notice initiating a 5-year review was published for Santa Cruz cypress in 2007 (72 FR 7064, February 14, 2007), and a 5-year review completed in 2009 recommended that Santa Cruz cypress be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009d, p. 18).

TABLE 1—PREVIOUS FEDERAL ACTIONS FOR THE SIX TAXA ADDRESSED IN THIS PETITION FINDING

| Species name | Date listed and status | Critical habitat designated | Recovery plan published | Most recent 5-year review and recommendation |
|---|---|---|---|---|
| Inyo California towhee (*Pipilo crissalis eremophilus*). | August 3, 1987 (52 FR 28780). Threatened. | August 3, 1987 (52 FR 28780). | April 10, 1998 | September 30, 2008. Delist. |
| Arroyo toad (*Anaxyrus californicus*) | December 16, 1994 (59 FR 64859). Endangered. | February 9, 2011 (76 FR 7246). | July 24, 1999 | August 17, 2009. Downlist. |
| *Eriodictyon altissimum* (Indian Knob mountainbalm). | December 15, 1994 (59 FR 64613). Endangered. | None | September 26, 1998 | February 4, 2009. Downlist. |
| *Astragalus jaegerianus* (Lane Mountain milk-vetch). | October 6, 1998 (63 FR 53596). Endangered. | May 19, 2011 (76 FR 29108). | None | July 10, 2008. Downlist. |
| Modoc sucker (*Catostomus microps*) | June 11, 1985 (50 FR 24526). Endangered. | June 11, 1985 (50 FR 24526). | February 28, 1992 | August 3, 2009. Downlist. |
| *Cupressus abramsiana* (Santa Cruz cypress). | January 8, 1987 (52 FR 675). Endangered. | None | September 29, 1998 | August 17, 2009. Downlist. |

*Species Information*

The Inyo California towhee is a subspecies of the California towhee (*Pipilo crissalis*) found in the southern Argus Mountains of the Mojave Desert in Inyo County, California. This subspecies requires areas of dense riparian vegetation to provide nesting substrate, protection from predators, and shade from the desert sun. It also uses upland creosote vegetation for nesting and foraging. For more information on the life history, biology, and distribution of Inyo California towhee, see the 2008 5-year review of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.

The arroyo toad is a small, dark-spotted toad that occurs in the headwaters of coastal drainages in southern California. Its breeding habitat consists of slow-moving streams with shallow pools, nearby sandbars, and adjacent stream terraces. The arroyo toad breeds and deposits egg masses in shallow sandy pools that are usually bordered by sand and gravel flood terraces. Outside of the breeding season, arroyo toads are essentially terrestrial and are known to use a variety of upland habitats. For more information on the life history, biology, and distribution of the arroyo toad, see the 2009 5-year review of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.

Indian Knob mountainbalm is a perennial plant species endemic to southwestern San Luis Obispo County, California. It is a diffusely branched evergreen shrub that can reach heights of 6 to 13 feet (2 to 4 meters). New growth occurs primarily from rhizomatous suckers (shoots extending from a root-like subterranean stem), but flowers can also produce numerous tiny seeds. Indian Knob mountainbalm occurs within coastal dune scrub and coastal chaparral plant communities where it grows on tar sand or sandy loam soils. For more information on the life history, biology, and distribution of Indian Knob mountainbalm, see the 2009 5-year review of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.

Lane Mountain milk-vetch is a perennial plant species found in the west Mojave Desert in San Bernardino County, California. It typically twines up through a host shrub that it uses for structural support. Although the taproot is perennial, the aboveground portion of the plant is herbaceous and resprouts from the taproot or old stems with the first winter rains, dying back during the drier summer months. In years with little rainfall, taproots may remain dormant and few plants will be visible. In years with more rainfall, individuals may grow vegetatively and produce seed. For more information on the life history, biology, and distribution of Lane Mountain milk-vetch, see the 2008 5-year review of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.

The Modoc sucker is a relatively small member of the sucker family (Catasomidae), usually reaching only 7 inches (17.8 cm) in total length when mature. It is known from three stream drainages in the Pit River Basin, including the Goose Lake subbasin in northeastern California (Modoc and Lassen Counties) and south-central Oregon (Lake County). Modoc suckers typically occupy small, moderate-gradient streams with low summer flow. They are most abundant in pools, especially those deeper than 1 foot (0.3 m), where they graze on algae and small benthic invertebrates. For more information on the life history, biology, and distribution of the Modoc sucker, see the 2009 5-year review of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.

Santa Cruz cypress is a small-statured tree in the cypress family (Cupressaceae), with mature trees reaching 82 feet (25 meters) in height. This species occurs as patches within a mosaic of coastal chaparral and mixed evergreen forests located on dry ridges inland from the coastal fog belt. At an average of 11 years of age, trees begin producing cones that slowly release seeds throughout the life of the tree. However, fire can accelerate seed release, and areas that have been recently disturbed by fire or mechanical means can produce a high number of saplings. This species is known from five populations in the Santa Cruz Mountains in Santa Cruz and San Mateo Counties, California. For more information on the life history, biology, and distribution of Santa Cruz cypress, see the 2009 5-year review of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.

## Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife

and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons:

(1) The species is extinct;

(2) The species has recovered and is no longer endangered or threatened; or

(3) The original scientific data used at the time the species was classified were in error.

In making this 90-day finding, we evaluated whether information regarding threats to Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned actions may be warranted. Our evaluation of this information is presented below.

*Information Provided in the Petition*

The petitioner requested that the Service delist the Inyo California towhee, and reclassify the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress based on the analysis and recommendations contained in the most recent 5-year reviews of these taxa. The petitioner cited the 5-year reviews for each of these species as supporting information for the petition.

*Evaluation of Information Provided in the Petition and Available in Service Files*

On March 25, 2009, we published a notice of completion of 42 5-year reviews (74 FR 12878), including the recommendation of status changes for the Inyo California towhee and Lane Mountain milk-vetch. On May 21, 2010, we published a notice of completion of 96 5-year reviews (75 FR 28636), including the recommendation of status changes for the arroyo toad, Indian Knob mountainbalm, Modoc sucker, and Santa Cruz cypress. Status change recommendations for these species are shown in Table 1. Each 5-year review contains general background and life-history information, overview of recovery criteria, an analysis of threats specific to each taxon based on the five listing factors in section 4 the Act, and recommendation of status change, if appropriate. The petitioner cited the 5-year reviews for each of these species as supporting information for the petition, but provided no other information. We hereby cite and incorporate the data and recommendations in the 5-year reviews for each of these species. Accordingly, we have already evaluated information regarding threats as presented in the petition (see the 5-year reviews of the species at *http://www.regulations.gov* or *http://www.fws.gov/endangered/*.).

The primary rationale for the recommendation in the 2008 5-year review to delist the Inyo California towhee was the substantial increase in population numbers and expansion of the species' range (Service 2008a, p. 19). Additionally, the primary threats identified at the time of listing (habitat loss due to grazing, recreation, water diversion, and mining) have been significantly reduced. Approximately 94 percent of the species' range is federally owned and measures are being implemented to conserve the species (Service 2008a, p. 19). The best available information indicated that the species no longer met the definition of endangered or threatened.

The primary rationale for the recommendation in the 2009 5-year review to downlist the arroyo toad was the achievement of the recovery plan downlisting criterion of establishing 20 self-sustaining populations of arroyo toads (Service 2009a, p. 19). Since listing the arroyo toad in 1994, new locations in areas not previously known to be occupied by arroyo toads have been discovered as a result of site-specific surveys. In addition, a new population was discovered in Monterey County, and the area known to be occupied by the original 22 populations has expanded as a result of the discovery of new arroyo toad localities. Threats to the arroyo toad identified at the time it was listed in 1994 are still present. However, many of these threats have been reduced as a result of various conservation measures undertaken for the species and management plans that include the species (Service 2009a, p. 19). The best available information indicated that the species was no longer in imminent danger of extinction and best met the definition of threatened.

The primary reason for the recommendation in the 2009 5-year review to downlist Indian Knob mountainbalm was the removal of the threat of development throughout the species' range (Service 2009b, p. 11). The best available information indicated that occurrences of Indian Knob mountainbalm were self-sustaining and stable, were no longer in imminent danger of extinction, and that the species best met the definition of threatened.

The primary reason for the recommendation in the 2008 5-year review to downlist Lane Mountain milk-vetch was the increased abundance and range of the species (Service 2008b, p. 14) compared to that at the time of listing. Additionally, information available at the time indicated that, while 20 percent of the species' range was at risk of extirpation from military exercises, most of the remaining habitat had been placed under various conservation designations. Based on this new understanding of abundance and range and the planned conservation measures, the best available information indicated that Lane Mountain milk-vetch was no longer in imminent danger of extinction and best met the definition of threatened (Service 2008b, p. 14). Since the 5-year review, new information has become available indicating that the number of individuals has declined between 2001 and 2011. The information provided with the petition, as well as new information contained in our files, will be evaluated in the 12-month finding.

The primary rationale for the 2009 5-year review recommendation to downlist the Modoc sucker was the substantial reduction in the threats of habitat modification, range reduction, and hybridization (Service 2009c, p. 26). Habitat conditions on both public and private lands have shown substantial improvement. The distribution of known populations has remained stable or expanded over the past 20 years. A greater understanding of genetic relationships and natural gene flow between the Modoc and Sacramento sucker has reduced concerns about hybridization between the species. The principal remaining threat is predation by nonnative fishes, in particularly brown trout (*Salmo trutta*) and largemouth bass (*Micropterus salmoides*). Based on the increased range and reduction of threats, the best available information indicated that the Modoc sucker was no longer in imminent danger of extinction and best met the definition of threatened (Service 2009c, p. 26).

The primary reasons for the 2009 5-year review recommendation to downlist Santa Cruz cypress were the reduction in threats and survey information indicating there are a substantially greater number of individuals than were known at the time of listing (Service 2009d, p. 12). The threats of residential development, agricultural conversion, and logging have decreased since the time of listing, primarily as a result of land acquisition for conservation purposes. The species still faces threats to its long-term persistence due to a low level of regeneration. Based on the reduced threats and increased abundance, the best available information indicated that Santa Cruz cypress was no longer in imminent danger of extinction and best met the definition of threatened (Service 2009d, p. 12).

Any additional information we receive in response to this finding will be incorporated into our status review.

## Finding

On the basis of our determination under section 4(b)(3)(A) of the Act, we have determined that the petition and information in our files present substantial scientific or commercial information indicating that delisting the Inyo California towhee and reclassifying from endangered to threatened the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress may be warranted. This finding is based on information provided in our analyses of the threats to each taxon contained in the most recent 5-year reviews for each of these taxa.

Because we have found that the petition presents substantial information indicating that delisting the Inyo California towhee, and reclassifying the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress may be warranted, we are initiating status reviews for the taxa to determine whether the petitioned actions of delisting or reclassifying are warranted.

The ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. We will complete a thorough status review of each species following a substantial 90-day finding. In the resulting 12-month finding, we will determine whether a petitioned action is warranted. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

## 5-Year Reviews

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B), to determine on the basis of such a review whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened, or threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress.

## References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Klamath Falls or Ventura Fish and Wildlife Offices (see **FOR FURTHER INFORMATION CONTACT**).

## Authors

The primary authors of this notice are the staff members of the U.S. Fish and Wildlife Service Pacific Southwest Regional Office in Sacramento, California.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 17, 2012.

**Gregory E. Siekaniec,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2012–13425 Filed 6–1–12; 8:45 am]

BILLING CODE 4310–55–P

# Notices

Federal Register
Vol. 77, No. 107
Monday, June 4, 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

May 29, 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:* End-Use Certificate Program

*OMB Control Number:* 0560–0151

*Summary of Collection:* Public Law 103–182, Section 321(f) of the North American Free Trade Agreement Implementation Act mandates that the Secretary of Agriculture shall implement, in coordination with the Commissioner of Customs and Border Protections, a program requiring that end-use certificates be included in the documentation covering the entry into the United States of any wheat originating from Canada. The end-use certificate program was designed to ensure that Canadian wheat does not benefit from USDA or CCC-assisted export programs.

*Need and Use of the Information:* The form FSA–750 ''End-Use Certificate for Wheat'' is used by importers of Canadian wheat to report entry into the United States. The form must be submitted by the importer within 15 workdays following the date of entry. Millers, exporters, and other users of imported Canadian wheat use the FSA–751, ''Wheat Consumption and Resale Report,'' to report final disposition of Canadian wheat in the United States. Failure to collect the information on an entry-by-entry basis would make it impossible to ensure that imported grain retains its' identify preserved status and doe not benefit from USDA or CCC-assisted programs.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 87.

*Frequency of Responses:* Reporting: On occasion; Quarterly.

*Total Burden Hours:* 4,068.

**Ruth Brownm,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2012–13422 Filed 6–1–12; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

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

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Cook Inlet Beluga Whale (CIBW) Economic Survey.

*OMB Control Number:* None.

*Form Number(s):* NA.

*Type of Request:* Regular submission (new information collection).

*Number of Respondents:* 2,428.

*Average Hours per Response:* Full survey, 25 minutes; follow-up telephone interview, 5 minutes.

*Burden Hours:* 814.

*Needs and Uses:* This request is for a new information collection.

The population of Cook Inlet beluga whales in the Cook Inlet of Alaska is one of five distinct population segments in United States (U.S.) waters. It was listed as endangered under the Endangered Species Act on October 22, 2008 (73 FR 62919), and Critical Habitat was designated in a final rule published on April 11, 2011 (76 FR 20180). The public benefits associated with protection actions for the Cook Inlet beluga whale are substantially the result of the non-consumptive value people attribute to such protection. This includes active use values associated with being able to view beluga whales and passive use, or ''existence'', values unrelated to direct human use. No empirical estimates of these values for Cook Inlet beluga whales are currently available, but this information is needed for decision makers to more fully understand the trade-offs involved in evaluating population recovery planning alternatives and to complement other information available about the costs, benefits, and impacts of alternative plans.

The National Marine Fisheries Service (NMFS) plans to conduct a survey to collect data for estimating non-consumptive economic benefits associated with changes in extinction risk resulting from protection actions for the Cook Inlet beluga whale. The analysis NMFS completed prior to designating Critical Habitat for Cook Inlet beluga whales described non-consumptive benefits in limited qualitative terms only. Adding empirical data about non-consumptive benefits remains the most significant gap to enabling a complete and balanced

economic analysis. The results from this survey should be useful to NMFS and the public in the future as NMFS considers various actions under the recovery planning process for Cook Inlet beluga whales. Any future regulatory actions would include analyses of costs and benefits of the proposed measures as well as opportunities for public input.

During 2011, NMFS fielded a pilot version of the survey to a small number of U.S. households, primarily to evaluate the survey administration procedures prior to sending the survey out to a larger and more representative sample. The results of this pretest indicated the need to make minor adjustments to the survey administration (e.g., timing of mailings and telephone calls), which will be incorporated in the data collection to which this notice pertains.

*Affected Public:* Individuals or households.

*Frequency:* One time.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* *OIRA_Submission@omb.eop.gov.*

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: May 30, 2012.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2012–13428 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1830]**

### Expansion of Foreign-Trade Zone 163; Ponce, PR

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* Codezol, C.D., grantee of Foreign-Trade Zone 163, submitted an application to the Board for authority to expand FTZ 163 to include existing Sites 14 and 15 in Caguas on a permanent basis and to include a site (Site 16) in Ponce, Puerto Rico, within and adjacent to the Ponce Customs and Border Protection port of entry (FTZ Docket 52–2011, filed 8/9/2011);

*Whereas,* notice inviting public comment has been given in the **Federal Register** (76 50455, 8/15/2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that the proposal would be in the public interest if subject to a time limit;

*Now, therefore,* the Board hereby orders:

The application to expand FTZ 163 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to a time limit for Sites 14, 15, and 16 that would terminate authority on May 31, 2017, subject to extension upon review.

Signed at Washington, DC, this 24th day of May 2012.

**Paul Piquado,**

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Andrew McGilvray.**

*Executive Secretary.*

[FR Doc. 2012–13478 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1825]**

### Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework; Ada and Canyon Counties, ID

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

*Whereas,* the Board adopted the alternative site framework (ASF) in December 2008 (74 FR 1170–1173, 01/12/2009 (correction 74 FR 3987, 01/22/2009); 75 FR 71069–71070, 11/22/2010) as an option for the establishment or reorganization of general-purpose zones;

*Whereas,* the Caldwell Economic Development Council, Inc. (the Grantee) has made application to the Board (FTZ Docket 65–2011, filed 10/19/2011) requesting the establishment of a foreign-trade zone under the ASF with a service area of Ada and Canyon Counties, Idaho, within and adjacent to the Boise U. S. Customs and Border Protection port of entry, and proposed Sites 1 and 2 would be categorized as magnet sites;

*Whereas,* notice inviting public comment has been given in the **Federal Register** (76 FR 66034–66035, 10/25/2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, therefore,* the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records as Foreign-Trade Zone No. 280, as described in the application, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and to an ASF sunset provision for magnet sites that would terminate authority for Site 2 if not activated within five years from the date of approval.

Signed at Washington, DC, this 11th day of May 2012.

**John E. Bryson,**

*Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2012–13479 Filed 6–1–12; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1831]**

### Reorganization/Expansion of Foreign-Trade Zone 74 Under Alternative Site Framework Baltimore, MD

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Board adopted the alternative site framework (ASF) in December 2008 (74 FR 1170–1173, 01/12/09; correction 74 FR 3987, 01/22/09; 75 FR 71069–71070, 11/22/10) as an option for the establishment or reorganization of general-purpose zones;

*Whereas*, the Baltimore Development Corporation on behalf of the City of Baltimore, grantee of Foreign-Trade Zone 74, submitted an application to the Board (FTZ Docket 53–2011, filed 8/10/2011; amended 3/13/2012) for authority to reorganize and expand under the ASF with a service area of the City of Baltimore and the Counties of Anne Arundel, Baltimore, Cecil and Harford, Maryland, within and adjacent to the Baltimore Customs and Border Protection port of entry; FTZ 74's existing Sites 1, 3, 5, 10, 11 and 14 would be removed; the boundaries of Sites 4, 16 and 17 would be expanded; the boundaries of Sites 2, 6, 7, 8, 12 and 13 would be reduced; a portion of Site 8 would be redesignated as Site 25; Sites 2, 4 and 16 would be categorized as magnet sites; Sites 6, 7, 8, 9, 12, 13, 15, 17, 18, 20, 21, 22, 23, 24 and 25 would be categorized as usage-driven sites; Temporary Sites 19 and 31 will maintain their current zone designation; and, the grantee proposes a new magnet site (Site 26) and four new usage-driven sites (Sites 27, 28, 29 and 30);

*Whereas*, notice inviting public comment was given in the **Federal Register** (76 FR 50717–50718, 8/16/2011) and the application, as amended, has been processed pursuant to the FTZ Act and the Board's regulations; and

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal, as amended, is in the public interest;

*Now, therefore*, the Board hereby orders:

The application to reorganize and expand FTZ 74 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 2, 4, 16 and 26 if not activated by May 31, 2017, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 6, 7, 8, 9, 12, 13, 15, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by May 31, 2015.

Signed at Washington, DC, this 24th day of May 2012.

**Paul Piquado,**

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2012–13477 Filed 6–1–12; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–552–813]**

### Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

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

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain steel wire garment hangers (garment hangers) from the Socialist Republic of Vietnam (Vietnam). For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice.

**DATES:** *Effective Date:* June 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** John Conniff (for the Hamico Companies [1]) at 202–482–1009, and Robert Copyak (for the Infinite Companies [2]) at 202–482–2209, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Case History**

On December 29, 2011, the Department received a countervailing duty (CVD) petition concerning imports of garment hangers from Vietnam filed in proper form by M&B Metal Products Company, Inc., Innovative Fabrication LLC/Indy Hanger, and US Hanger Company, LLC (collectively, petitioners).[3] The Department initiated an investigation on January 18, 2012.[4] In the *Initiation,* the Department stated that it intended to rely on data from U.S. Customs and Border Protection (CBP) for purposes of selecting the mandatory respondents.[5] On January 18, 2012, the Department released the results of a query performed on the CBP's database for calendar year 2011.[6] Due to the large number of producers and exporters of garment hangers in Vietnam, we determined that it was not practicable to individually investigate each producer and/or exporter. We, therefore, selected the following two producers and/or exporters of garment hangers to be mandatory respondents: Infinite and SEA Hamico, the largest publicly identifiable producers and/or exporters of the subject merchandise.[7] On February 10, 2012, we issued the initial CVD questionnaire to the Government of the Vietnam (GOV) and the selected mandatory respondents. We also issued a confirmation of shipment questionnaire on the same date to Infinite and SEA Hamico.

On February 14, 2012, Infinite and SEA Hamico confirmed that they shipped subject merchandise to the United States during the period of investigation (POI). On March 2, 2012, the Department postponed the deadline

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[1] The Hamico Companies are the South East Asia Hamico Export Joint Stock Company (SEA Hamico), Nam A Hamico Export Joint Stock Company (Nam A), and Linh Sa Hamico Company Limited (Linh Sa).

[2] The Infinite Companies are Infinite Industrial Hanger Limited (Infinite) and Supreme Hanger Company Limited (Supreme).

[3] *See* Petition for the Imposition of Countervailing Duties (Petition). A public version of the Petition and all other public documents and public versions for this investigation are available on the public file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

[4] *See Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigation,* 77 FR 3737 (January 25, 2011) (*Initiation*), and accompanying Initiation Checklist.

[5] *See Initiation,* 77 FR at 3739.

[6] *See* Memorandum to the File from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 3, regarding ''Release of Customs and Border Protection (CBP) Query Results'' (January 18, 2012).

[7] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, ''Respondent Selection'' (February 10, 2012). The companies are listed in alphabetical order and not listed based on export value/volume.

for the preliminary determination by 65 days to no later than May 29, 2012.[8]

On February 3, 2012, petitioners submitted untimely new subsidy allegations concerning electricity that the GOV allegedly provided for less than adequate remuneration (LTAR). On March 29, 2012, the Department issued a decision memorandum in which it declined to initiate an investigation into petitioners' allegation.[9]

The GOV submitted its response to the initial questionnaire on March 30, 2012. SEA Hamico submitted its questionnaire response on behalf of the Hamico Companies on April 2, 2012. Infinite submitted its questionnaire response on behalf of the Infinite Companies on April 3, 2012. The Department issued supplemental questionnaires to GOV, the Hamico Companies, and the Infinite Companies from April 25 through May 14, 2012. The Department received the supplemental questionnaire responses from May 4 through May 22, 2012.

**Period of Investigation**

The POI for which we are measuring subsidies is January 1, 2011, through December 31, 2011, which corresponds to the most recently completed fiscal year.[10]

**Scope of the Investigation**

The merchandise subject to the investigation is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers.

Specifically excluded from the scope of the investigation are (a) wooden, plastic, and other garment hangers that are not made of steel wire; (b) steel wire garment hangers with swivel hooks; (c) steel wire garment hangers with clips permanently affixed; and (d) chrome-plated steel wire garment hangers with a diameter of 3.4mm or greater.

The products subject to the investigation are currently classified under U.S. Harmonized Tariff Schedule (HTSUS) subheadings 7326.20.0020 and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

**Scope Comments**

As discussed in the *Initiation,* we set aside a period for interested parties to raise issues regarding product coverage.[11] However, no parties submitted scope comments on the records of the AD or CVD investigations.

**Injury Test**

Because Vietnam is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (the ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On February 10, 2012, the ITC made a preliminary determination finding that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of garment hangers from Vietnam.[12]

**Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination**

On May 9, 2012, petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final CVD determination with the final determination in the companion AD investigation of garment hangers from Vietnam. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the final determination in the companion AD investigation of garment hangers from Vietnam. The final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on or about October 9, 2012.

**Application of the CVD Law to Imports From Vietnam**

On April 1, 2010, the Department published the *Carrier Bags from Vietnam Final Determination* in which we found the CVD law applicable to Vietnam.[13] Furthermore, on March 13, 2012, the President signed into law HR 4105, which makes clear that the Department has the authority to apply the CVD law to non-market economies such as Vietnam. The effective date of the enacted legislation makes clear that this provision applies to this proceeding.[14] Additionally, for reasons stated in the Carrier Bags from Vietnam Decision Memorandum at Comment 3, we are using the date of January 11, 2007, the date on which Vietnam became a member of the WTO, as the date from which the Department will identify and measure subsidies in Vietnam for purposes of CVD investigations.

**Allocation Period**

The average useful life (AUL) period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[15] No party in this proceeding has disputed this allocation period.

**Attribution of Subsidies**

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii) through (v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a

[8] *See Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 77 FR 3737 (January 25, 2012).

[9] *See* Memorandum to Melissa G. Skinner, Director, Office 3, AD/CVD Operations, ''Decision Memorandum on a New Subsidy Allegation'' (March 29, 2012).

[10] *See* 19 CFR 351.204(b)(2).

[11] *See Initiation,* 77 FR at 3737.

[12] *See Steel Wire Garment Hangers from Taiwan and Vietnam* (Investigation Nos. 701–TA–487 and 731–TA–1197–1198 (Preliminary), USITC Publication 4305, February 2012).

[13] *See Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination,* 75 FR 16428 (April 1, 2010) (*Carrier Bags from Vietnam Final Determination*), and accompanying Issues and Decision Memorandum (Carrier Bags from Vietnam Decision Memorandum) at ''Land Rent Reduction or Exemption for Exporters.''

[14] *See* HR 4105, 112th Cong. 1(b) (2012) (enacted).

[15] *See* U.S. Internal Revenue Service Publication 946 (2008), How to Depreciate Property, at Table B–2: Table of Class Lives and Recovery Periods.

majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[16]

**The Hamico Companies**

SEA Hamico, Nam A, and Linh Sa all produce subject merchandise. SEA Hamico owns a majority stake in Nam A and Linh Sa. Therefore, in accordance with 19 CFR 351.525(b)(6)(vi), we preliminarily determine that SEA Hamico, Nam A, and Linh Sa are cross-owned companies. Further, because all three firms produce subject merchandise, in accordance with 19 CFR 351.525(b)(6)(ii), we have attributed subsidies received by SEA Hamico, Nam A, and Linh Sa to the combined sales of the three firms, net of intra-company sales.

**The Infinite Companies**

Infinite and Supreme are owned by the same individual, Person A.[17] Therefore, in accordance with 19 CFR 351.525(b)(6)(vi), we preliminarily determine that Infinite and Supreme are cross-owned. Because Infinite and Supreme both produce subject merchandise, in accordance with 19 CFR 351.525(b)(6)(ii), we have attributed subsidies received by Infinite and Supreme to the combined sales of the two firms, net of intra-company sales.

**Subsidy Valuation**

**Interest Rate Benchmark**

For purposes of this preliminary determine we require the use of a short-term loan benchmark denominated in U.S. dollars. Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the ''difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,'' indicating that a benchmark must be a market-based rate. Normally, the Department uses comparable commercial loans reported by the company for benchmarking purposes.[18] If the firm does not receive any comparable commercial loans during the relevant periods, the Department's regulations provide that we ''may use a national average interest rate for comparable commercial loans.'' [19] In the *Carrier Bags from Vietnam Preliminary Determination,* the Department determined that loans provided by Vietnamese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[20] We preliminarily determine that there is no information on the record of the instant investigation that warrants a reconsideration of this finding. Therefore, we continue to find that the benchmarks that are described under 19 CFR 351.505(a)(3)(i) and (ii) are not appropriate and that we must use an external, market-based benchmark interest rate.

For short-term U.S. dollar loans, we have followed the methodology developed over a number of successive PRC investigations. Specifically, for U.S. dollar loans, the Department used as a benchmark the one-year dollar interest rates from the London-Interbank Offered Rate (LIBOR) indexes, plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating.

**Land Benchmark**

Section 351.511(a)(2) of the Department's regulations sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration (LTAR). These potential benchmarks are listed in hierarchical order by preference: (1) Market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles.

In *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 74 FR 45811, 45815–16 (September 4, 2009) (*Carrier Bags from Vietnam Preliminary Determination*), the Department had also examined land rent exemptions and established a benchmark for land in Vietnam. The Department explained that it could not rely on the use of so-called ''first-tier'' and ''second-tier benchmarks'' to assess the benefits from the provision of land at LTAR in Vietnam. It also determined that the purchase of land-use rights in Vietnam is not conducted in accordance with market principles. *Id.* at 45815, referencing the Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary, Import Administration, ''Countervailing Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Land Markets in Vietnam'' (August 28, 2009) (*Land Market Memorandum*).[21] Therefore, in selecting a benchmark for land, the Department analyzed comparable market-based prices in another country at a comparable level of economic development within the geographic vicinity of Vietnam. As a result of this analysis, the Department selected the cities of Pune and Bangalore in India as providing the closest match among options on the record to Vietnam in terms of per capita GNI and population density, and derived a simple average of all rental rates for industrial property in both cities to use as the appropriate land benchmark for Vietnam. *Id.* at 45816.

In the final determination of retail carrier bags, the Department retained this land benchmark methodology unchanged from the preliminary determination.[22]

We find no information on the record of the instant investigation that warrants a revision to the land benchmark methodology developed in *Carrier Bags from Vietnam Preliminary Determination.* Therefore, we continue to find that we cannot rely on the use of ''first'' and ''second-tier'' benchmarks for purposes of the land for LTAR benchmark because the GOV continues

[16] *See Fabrique de Fer de Charleroi, SA* v. *United States,* 166 F. Supp. 2d 593, 600–604 (CIT 2001) (*Fabrique*).

[17] The name of the individuals that owns Infinite and Supreme is business proprietary. We refer to the principal owner of the two firms as Person A.

[18] *See* 19 CFR 351.505(a)(3)(i).

[19] *See* 19 CFR 351.505(a)(3)(ii).

[20] *See* 74 FR at 45814, which references a Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary, Import Administration, ''Countervailing Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam A Review of Vietnam's Banking Sector'' (August 28, 2009) (Vietnam Banking Memorandum). We have placed the Banking Memorandum on the record of the instant investigation. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''Placement of Banking Memorandum on Record of Investigation,'' (May 29, 2012). The Department's conclusions in the Vietnam Banking Memorandum were not reversed as a result of the *Carrier Bags from Vietnam Final Determination. See* Carrier Bags from Vietnam Decision Memorandum at ''Application of Facts Otherwise Available and AFA for API and Fotai.''

[21] We have placed the Land Market Memorandum on the record of the instant investigation. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''Placement of Land Market Memorandum on Record of Investigation,'' (May 29, 2012).

[22] *See* Carrier Bags from Vietnam Decision Memorandum at ''Land Rent Reduction or Exemption for Exporters,'' footnote 23.

to retain land-use pricing authority (including lease rates) for land leased directly from the government, restrictions are still in place with regard to land that is sub-leased by private parties, and the land-use contracts held by private parties, that serve as the basis for sub-leases, have been granted by government agencies that have been set under government decrees.[23] For the same reasons, we further continue to find that that the purchase of land-use rights in Vietnam is not conducted in accordance with market principles.

Accordingly, to measure the benefit for land for LTAR in this preliminary determination, we are using a land benchmark based on the rental rates for industrial property in Pune and Bangalore. Using the same data sources used in *Carrier Bags from Vietnam Preliminary Determination,* we sought 2011 data on those rental rates. We find that the 2008 data from *Carrier Bags from Vietnam Preliminary Determination* remain the latest data available. Therefore, we are using the same simple average of all rental rates for industrial property in the cities of Pune and Bangalore that was calculated in *Carrier Bags from Vietnam Preliminary Determination* and adopted in *Carrier Bags from Vietnam Final Determination,* indexed forward to 2011 using consumer price index data for India, as published by the International Monetary Fund.

**Analysis of Programs**

*I. Programs Preliminary Determined To Be Countervailable*

A. Land Preferences for Enterprises in Encouraged Industries or Industrial Zones

Decree No. 142/2005/NC–CP (Decree 142) of November 14, 2005, provides for the collection of land rents and water surface rents in connection with land leased by the GOV. *See* the GOV's March 30, 2012, Questionnaire Response at Exhibit 34. Decree 142 states that land rent shall be reduced or exempted under certain circumstances enumerated under the law and also where the Prime Minister determines it is appropriate to do so, based on the recommendation of the agency heads and provincial and municipal governments. *Id.* at Articles 13–15. For example, Decree 142 provides for land exemptions for firms located in certain geographical areas facing socio-economic difficulties. *Id.* at Article 14.

The Hamico Companies reported that on January 12, 2004, the GOV's Department of Natural Resources and Environment granted SEA Hamico land-use rights for its facility in the Chau Son Industrial Zone Area located in Phuong Le Hong Phong, Phu Ly City of Ha Nam Province. The Hamico Companies state that SEA Hamico signed a ''new land lease contract'' with the GOV with regard to the same plot of land on August 11, 2009. The lease contract in effect during the POI establishes an annual rent charged to SEA Hamico. The lease contract further specifies that the annual rent is subject to the provisions of Decree 142. *See* the Hamico Companies' April 2, 2012, Questionnaire Response, Exhibit 7 at 15. However, the preferential investment certificate issued to SEA Hamico indicates that SEA Hamico is exempted from paying the annual rent on the land for ten years, a period that extends into the POI, and shall enjoy a 50 percent reduction in rent during the second ten years of the lease. *See* The GOV's March 30, 2012, Questionnaire Response at Exhibit 43. Further, Decision No. 2459/QD–CT, December 28, 2011, (Decision No. 2459) issued by the GOV's Department of Taxation of Ha Nam Province specifies the amount of rent exemption that SEA Hamico received during the POI. *See* The GOV's March 30, 2012, Questionnaire Response at Exhibit 47. Decision No. 2459 states that the rent exemption was provided pursuant to the ''encouraged investment provisions'' of Article 14.4 of Decree 142, which deals with rent exemptions provided to investment projects located in geographic areas facing socio-economic difficulties. *See* the GOV's March 30, 2012, Questionnaire Response at Exhibit 34.

The Hamico Companies report that Nam A also received exemptions on annual lease payments in connection with its land lease with People's Committee of Ha Nam Province during the POI. *See* the Hamico Companies May 16, 2012, supplemental questionnaire response at 5 and Exhibit 3, which contains Nam A's lease contract. The Hamico Companies state that Nam A's benefit is ''similar'' to that received by SEA Hamico in that the GOV provided the lease exemption contingent upon Nam A leasing land in a geographically designated area. Id. at 5.

As explained above, we have adopted January 11, 2007, the date on which Vietnam became a member of the WTO, as the date from which the Department will identify and measure subsidies in Vietnam. In the case of SEA Hamico, the lease contract in question was signed prior to the cut-off date. However, as indicated by the Hamico Companies, SEA Hamico signed a ''new lease contract'' with the GOV concerning the plot of land at issue on August 11, 2009, which established the relevant terms of the lease after the cut-off date. Therefore, we find that it is appropriate to consider the land rent exemptions received by SEA Hamico during the POI in connection with the lease contract for purposes of our subsidy analysis.

Information on the record indicates that SEA Hamico and Nam A received the rent exemptions because the land plots were located in designated geographical areas and, thus, we preliminarily determine that the exemptions are specific under section 771(5A)(D)(iv) of the Act. We also preliminarily determine that the leasing of the land constitutes a financial contribution, in the form of a provision of a good, within the meaning of section 771(5)(D)(iii) of the Act. In addition, we find that the rent exemptions confer a benefit in accordance with section 771(5)(E) of the Act and 19 CFR 351.511(a).

The land contracts SEA Hamico and Nam A signed with the GOV did not require lump-sum payments at the time the original leases were signed. Rather, the contracts call for annual rent payments, which the GOV subsequently exempted. Thus, in accordance with 19 CFR 351.524(c)(1), we preliminarily determine that the rent exemptions received by SEA Hamico and Nam A constitute recurring subsidies. Therefore, pursuant to 19 CFR 351.524(a), we have allocated benefits from the rent exemptions to the year in which the exemptions were received. *See* also 351.511(b). As a result, for purposes of this preliminary determination, the benefit calculations for the rent exemptions are limited to those SEA Hamico and Nam A received during the POI.

As discussed above in the ''Land Benchmark'' section, we continue to find that land prices in Vietnam are not based on market principles, consistent with the findings in the *Carrier Bags from Vietnam Preliminary Determination;* unchanged in Carrier Bags from Vietnam Decision Memorandum at ''Land Rent Reduction or Exemption for Exporters.''

Consequently, we continue to find that we cannot rely on the use of ''first'' and ''second-tier'' benchmarks for purposes of the land for LTAR benchmark and, as was done in *Carrier Bags from Vietnam Preliminary Determination,* we must use a benchmark based on comparable market-based prices outside Vietnam. Therefore, for purposes of the preliminary determination, we have used as our benchmark the calculated

[23] *See* Land Memorandum at 6.

average of the rental rates for Pune and Bangalore, which corresponds to $6.088 per square meter per month. *See* Land Memorandum. This rate corresponds to rental prices during calendar year 2008, which we determine to be the latest such data available. Therefore, in our preliminary calculations, we indexed the 2008 price into a 2011 price using consumer price index data for India, as published by the International Monetary Fund.

To calculate the benefit, we multiplied the land benchmark discussed above by the total area of the land plots at issue. In this manner, we derived the benefit attributable to the land lease exemptions enjoyed by SEA Hamico and Nam A during the POI. To calculate the net subsidy rate, we converted the benefits into Vietnamese Dong and divided the total benefit by the total sales of the Hamico Companies, net of intra-company sales. On this basis, we determine the net countervailable subsidy to be 18.59 percent *ad valorem* for the Hamico Companies.

Regarding Linh Sa, the Hamico Companies reported that it signed its lease with cross-owned affiliate SEA Hamico and not with a GOV entity. *See* the Hamico Companies May 22, 2012, Supplemental Questionnaire Response at 6 and Exhibit 1, which contains the lease Lihn Sa signed with SEA Hamico. Based on this information, we preliminarily determine that Lihn Sa's lease with SEA Hamico does not constitute a government financial contribution as described under section 771(5)(D)(iv) of the Act.

Similarly, the Infinite Companies reported that Infinite leased land from Vinh Hung Limited Liability (Vinh Hung), which the Infinite Companies claim is a private company. The Infinite Companies also reported that Supreme leased land from a private party. *See* the Infinite Companies' April 3, 2012, initial questionnaire response at pages 21 through 24 and Exhibits 8–9. We obtained ownership information from the GOV regarding the party that leased land to Infinite and Supreme. Our review of this ownership information leads us to preliminarily determine that the lessors are private companies and, as such, its leases of land to Infinite and Supreme do not constitute a government financial contribution as described under section 771(5)(D)(iv) of the Act. *See* the GOV's May 22, 2012, Supplemental Questionnaire Response at 3–5 and Exhibit GOV S2–7.

B. Corporate Income Tax Reductions for Newly Established Investment Projects

We started an investigation of corporate income tax exemptions and reductions pursuant to alleged income tax preferences in industrial zones, and sought relevant information from the GOV and the respondents. The Hamico Companies reported that SEA Hamico received a 50 percent reduction in income taxes payable with regard to the 2010 tax return that it filed during the POI. The 2010 tax returns of Nam A and Linh Sa indicate that the firms were in a tax-loss position and, therefore, had no taxable income to exempt. The 2010 tax returns of the Infinite Companies filed during the POI indicate that the firms did not receive any income tax deductions or exemptions.

Information from the Hamico Companies and the GOV indicate that SEA Hamico received the exemption pursuant to the 1997 Law on Enterprise Income Tax, No. 57/L–CTN (Law No. 57), Law on Domestic Investment Encouragement, No. 03/1998/QH10 (Law No. 03) and the Implementing Decree of Law on Domestic Investment Encouragement of 1998, Decree No. 51/1999/ND–CP (Decree No. 51). *See* the GOV's May 22, 2012, Supplemental Questionnaire Response at 3; *see also* the Hamico Companies' May 14, 2012, questionnaire response, Exhibit 1 at 9. This income tax exemption is also referenced in the certificate of investment incentives issued to SEA Hamico by the People's Committee of Ha Nam Province. *Id.* at Exhibit 4. According to the GOV, SEA Hamico was entitled to an income tax exemption for two years and a 50 percent reduction in income taxes for the subsequent four years pursuant to Article 17, Clause 1, Point b of Law No. 57; Articles 15.7 and 21.1 of Law No. 3; and List A of Decree No. 51. *See* the GOV's May 22, 2012, Supplemental Questionnaire Response at 3–4. Specifically, the GOV states that this entitlement is based on Law No. 3, Article 15.7, ''Branches and trades that should be given priority in each period of socio-economic development.''

The GOV submitted Hamico's Preferential Investment Certificate No. 1107/GCNUD (September 23, 2003) and Certificate of Amendment to Investment Certificate No. 06221000076 (February 5, 2010), which describe the incentives applicable to Hamico's investment project. *See* the GOV's May 22, 2012, Third Supplemental Questionnaire Response at Exhibit GOVS3–3. We note that while these investment certificates identify the applicable laws and regulations, including Law No. 57, Law No. 3, and Decree 51, they do not identify the specific sections of the laws or decree. Thus, while the GOV has specified Article 15.7 of Law No. 3 as defining the entitlement, we note that Article 15 contains other investment activities with equal entitlement to the same incentives, *e.g.,* Article 15.3, investment projects related to ''the production of and trading in export goods,'' under which Hamico could qualify for the same exemption and reduction in income tax. Consequently, we will continue to seek information to clarify the precise basis on which Hamico benefited from this program.

As noted above, we initially examined the income tax exemption and reduction program pursuant to alleged tax preferences in industrial zones. As discussed above, the facts on the record thus far indicate the program provides benefits based on investment activities or certain enterprises, specifically ''branches and trades that should be given priority in each period of socio-economic development'' with regard to Hamico. To the extent that this constitutes a different program from among those that we enumerated in our initiation, 19 CFR 351.311(b) allows the Department to investigate other possible countervailable subsidies discovered during the course of a proceeding. This approach is consistent with the Department's practice.[24]

We preliminarily determine that the tax reduction provided to SEA Hamico under this program is specific to a group of enterprises, namely ''branches and trades that should be given priority in each period of socio-economic development'' specified under Article 15.7 of Law No. 3 within the meaning of section 771(5A)(D)(i) of the Act. The income tax reduction and exemption are financial contributions in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act, and provide a benefit to SEA Hamico in the amount of tax savings pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

To calculate the net subsidy rate, we divided the amount of SEA Hamico's tax savings, as indicated on the 2010 tax return it filed during the POI, by the combined total sales of SEA Hamico, Nam A, and Linh Sa, net of intra-company sales. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.93 percent *ad valorem* for the Hamico Companies.

[24] *See Carrier Bags from Vietnam Preliminary Determination,* 74 FR 45818; unchanged in Carrier Bags from Vietnam Decision Memorandum at ''Income Tax Preferences for Encouraged Industries.''

C. Import Duty Exemptions or Reimbursements for Raw Materials

Duty exemptions on raw materials are addressed in the Law on Import Duty and Export Duty, Law No. 45/2005/QH–11 (Law No. 45) and Decree No. 87/2010/ND–CP (Decree 87). *See* the GOV's March 30, 2012, questionnaire response at Exhibits 60. Specifically, under Law No. 45, Chapter IV, import duty exemption is provided for ''raw materials and supplies used for manufacture of equipment and machinery'' (Article 16.6(d)) and ''Raw materials, supplies and accessories imported for production activities of investment projects on the list of domains where investment is particularly encouraged or the list of geographical areas meeting with exceptional socio-economic difficulties'' (Article 16.9). *Id.* at Exhibit 60. We believe raw materials may also be imported duty-free under Article 16.4, ''goods imported for processing for foreign partners then exported or goods exported to foreign countries for processing for Vietnam then re-imported under processing contracts.'' *Id.* Additionally, Article 19 provides for reimbursement of duties on raw materials or supplies imported for the production of export goods, for which import tax has been paid.'' *Id.*

Decree No. 87, enacted in August 2010 reflects the implementation of Law No. 45 that was in effect during the POI. *Id.* at Exhibit 61. Article 12 of Decree 87 provides additional detail for the duty exemptions on raw materials originally provided under Law No. 45. Articles 12.6(d) and 12.14 specify that the exemptions for ''raw materials and supplies used for manufacture of equipment and machinery'' and ''raw materials, supplies and accessories imported for production activities of investment projects on the list of domains where investment is particularly encouraged or the list of geographical areas meeting with exceptional socio-economic difficulties'' will apply only where such raw materials and supplies ''cannot be domestically produced yet.'' *Id.* With regard to ''goods imported for processing for foreign parties,'' Article 12.4 leaves the import duty exemption unchanged, but adds that the exported processed products are also exempt from export duty.

Infinite and the GOV state that Infinite received exemptions on raw material imports based the export processing contracts it had with foreign firms. SEA Hamico and Lihn Sa also state that they received duty exemptions on raw materials. The Hamico Companies reported that Nam A did not import raw materials during the POI. Most, if not all, of the sales of the Infinite Companies and Hamico Companies are devoted to exports.

For import duty exemptions on raw materials for exported goods, the exemptions cannot exceed the amount of duty levied; otherwise, the excess amounts exempted confer a countervailable benefit under 19 CFR 351.519(a)(1)(i). Moreover, under 19 CFR 351.519(a)(4), the government must have a system to confirm which inputs are consumed in production and in what amounts; otherwise, the exemptions confer a benefit equal to the total amount of duties exempted. In the *Retail Carrier Bags from Vietnam Final Determination,* the Department concluded that the GOV does not have in place a system to confirm which inputs are consumed in the production of the exported products and in what amounts, including a normal allowance for waste. *See* Carrier Bags from Vietnam Decision Memorandum at ''Import Duty Exemptions for Imported Raw Materials for Exported Goods.'' No information on the record of the instant proceeding warrants a reconsideration of that finding; therefore, we find that the import duty exemptions on raw materials confer a benefit equal to the total amount of the duties exempted, in accordance with 19 CFR 351.519(a)(4).

Because the receipt of import duty exemptions on raw materials was contingent upon export performance as one or more criteria, we preliminarily determine that they are specific in accordance with section 771(5A)(B) of the Act. We further preliminarily determine that the exemptions constitute a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act.

To calculate the benefit, we summed the amount of duties saved during the POI. To calculate the net subsidy rate, we divided the benefit by respondents' total export sales, net of intra-company sales. On this basis, we preliminarily determine a net countervailable subsidy rate of 1.34 percent *ad valorem* for the Hamico Companies and 11.03 percent *ad valorem* for the Infinite Companies.

D. Preferential Lending to Exporters

The Hamico Companies reported that SEA Hamico and Linh SA had loans outstanding during the POI that were issued by the Vietnam Joint Stock Commercial Bank for Industry and Trade (Vietinbank) as well as an additional lending institution.[25] *See* the Hamico Companies' April 2, 2012, questionnaire response at Attachment 1; *see also* the Hamico Companies May 22, 2012, Supplemental Questionnaire Response at Attachment I, which contains the loan information of the additional lending institution. The GOV states that SEA Hamico and Linh Sa received these loans in connection with an ''export loan program'' operated by the respective lending institutions. *See* the GOV's March 30, 2012, questionnaire response at 24. According to the GOV, under this program, the lending institutions offered ''supported'' interest rates to exporters, provided that they use the proceeds of the loan in the manner specified in the contract, follow the payment schedule specified in the contract, conduct payment for exporting through the lending institution, and sell the foreign exchange earned from the export sale through the lending institution. *Id.* Regarding the Vietinbank, information from the GOV specifically indicates that Vietinbank offered the ''preferential'' interest rates to exporters in an effort to implement its ''Export Loan Program.'' *See* the GOV's May 16, 2012, supplemental questionnaire response at Exhibit 2. The Hamico Companies reported that Nam A did not have any loans outstanding during the POI. The Infinite Companies similarly reported that they did not have any loans outstanding during the POI.

In past CVD proceedings involving Vietnam, the Department has found Vietinbank to be a state-owned commercial bank (SOCB) and thus, a government authority capable of providing a financial contribution as described under section 771(5)(D)(i) of the Act. *See Carrier Bags from Vietnam Preliminary Determination,* 74 FR at 45817.[26] Information provided by the GOV indicates that it owned approximately 80 percent of Vietinbank during the POI. *See* the GOV's May 16, 2012, supplemental questionnaire response at 4. Hence, we continue to find that Vietinbank is a government authority. Therefore, we preliminarily determine that the loans issued to SEA Hamico and Lihn Sa by Vietinbank constitute a financial contribution by a government authority within the meaning of section 771(5)(D)(i) of the Act. Regarding the additional lending institution, because the Hamico Companies identified loans outstanding from this institution as financing offered

[25] The identity of this lending institution is business proprietary.

[26] The Department's finding that Vietinbank was a government authority operating as a SOCB was not reversed as a result of the *Carrier Bags from Vietnam Final Determination. See* Carrier Bags from Vietnam Decision Memorandum at ''Application of Facts Otherwise Available and AFA for API and Fotai.''

''under the export loan program'' we find, for purposes of the preliminary determination, that such loans constitute a financial contribution by a government authority within the meaning of section 771(5)(D)(i) of the Act.

We further preliminarily determine that, pursuant to section 771(5)(E)(ii) of the Act, loans issued to SEA Hamico and Lihn Sa under this program confer a benefit equal to the difference between what the recipients paid on the loans from the lending institutions and the amount they would have paid on comparable, commercial loans. In determining the amount SEA Hamico and Lihn Sa would have paid on comparable, commercial loans, we employed the interest rate benchmark discussed above in the ''Interest Rate Benchmark'' section. Information from the GOV indicates that receipt of the Vietinbank loans are contingent, in part, upon export activities and, thus, we preliminarily determine that this program is specific under section 771(5A)(B) of the Act.

Next, we summed the benefit calculated on each loan the firms had outstanding under the program during the POI and divided the total benefit by the combined total export sales of SEA Hamico, Nam A, and Lihn Sa, net of intra-company sales. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.39 percent *ad valorem* for the Hamico Companies.

*II. Program Preliminarily Determined Not To Confer Benefits During the POI*

A. Import Duty Exemptions on Imports of Goods for Encouraged Projects

Article 12.6 of Decree 87 allows firms with investment in encouraged projects and/or located in certain geographical areas (which includes industrial zones) to receive duty exemptions on import of goods to create fixed assets and equipment. Infinite, SEA Hamico, and Lihn Sa are located in industrial zones. We preliminarily determine that information from Infinite indicates that it received duty exemptions under this program. Regarding the Hamico Companies, though they qualified for duty exemptions under the program, information provided thus far indicates that, absent the program, the duty rates on the equipment the Hamico Companies imported were zero.

Because the receipt of import duty exemptions on fixed assets was contingent upon the firms' location in a designated geographic area, we preliminarily determine that they are regionally-specific in accordance with section 771(5A)(D)(iv) of the Act. We further preliminarily determine that the exemptions constitute a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act and confer a benefit under section 771(5(E) and 19 CFR 351.519(a)(4).

Normally, we treat exemptions from indirect taxes and import charges, such as tariff exemptions, as recurring benefits, consistent with 19 CFR 351.524(c)(1) and allocate these benefits only in the year that they were received. However, when an indirect tax or import charge exemption is provided for, or tied to, the capital structure or capital assets of a firm, the Department may treat it as a non-recurring benefit and allocate the benefit to the firm over the AUL. *See* 19 CFR 351.524(c)(2)(iii) and 19 CFR 351.524(d)(1). Therefore, because these exemptions are for goods used in creating capital equipment, we find that the duty exemptions are tied to the company's capital assets, and we have examined the tariff exemptions that respondents received under the program throughout the period between January 11, 2007, (the ''cut-off'' date for Vietnam) and the POI.

To calculate the amount of import duties exempted under the program, we multiplied the value of the imported equipment by the import duty rate that would have been levied absent the program. Next, we summed the amount of duty exemptions received in each year. Then we divided the total amount of tariff exemptions by the corresponding total sales for the year in which the exemptions were received. Those exemptions that were less than 0.5 percent of total sales were expensed to the year of receipt. Those exemptions that were greater than 0.5 percent of total sales were allocated over the AUL using the methodology described under 19 CFR 351.524(d)(2) and then divided by respondents' total sales during the POI, net of intra-company sales. In the case of Infinite, the benefits received under the program were fully expensed prior to the POI.

*III. Programs Preliminarily Determined To Be Not Used*

A. Grants to Firms That Employ More Than 50 Employees

The GOV self-reported the existence of this program in which it provides grants to firms that employ more than 50 employees. *See* the GOV's March 30, 2012, questionnaire response at 101. The GOV further reported that the Hamico Companies may have received benefits under the program given that the investment certificate for Nam A indicates that Nam A is eligible to receive funds under the program. *Id.; see also* the Hamico Companies' May 14, 2012, questionnaire response at Exhibit 5, which contains Nam A's investment certificate.

There is no evidence of the Infinite Companies' use of this program in its questionnaire response, investment certificate, or financial statements. Regarding the Hamico Companies, they explain that though they are eligible to participate in the program, they have not received any funds under the program from the GOV. *See* the Hamico Companies May 16, 2012, questionnaire response at 7. On this basis, we preliminarily determine that this program was not used by the Hamico and Infinite Companies.

B. Provision of Water for LTAR

The Infinite Companies reported that they draw their water from their own well located on site and, thus, do not pay water fees to the GOV. *See* the Infinite Companies May 11, 2012, supplemental questionnaire response at 11. Regarding the Hamico Companies, source documents for SEA Hamico indicate that it paid water fees to the GOV during the POI and that these fees were equal to those fees charged to businesses engaged in commercial and production activities, as set by the provincial government. *See* the Hamico Companies' April 2, 2012, questionnaire response at 28 and Exhibits 11–13. Concerning Nam A, its investment certificate provides that it is eligible to receive exemptions on its ''water rent.'' *See* the Hamico Companies' May 14, 2012, questionnaire response at Exhibit 5. However, despite qualifying for such an exemption, the Hamico Companies state that Nam A did not use the program because it did not use ''surface water'' (*i.e.,* water sources rented from the GOV) in its production process. *See* the Hamico Companies' May 16, 2012, questionnaire response at 6–7. Notwithstanding the Hamico Companies' claims regarding Nam A, information from the Hamico Companies indicates that Nam A paid water fees to the GOV during the POI and that these fees were equal to those fees charged to businesses engaged in commercial and production activities, as set by the provincial government. *See* the Hamico Companies May 22, 2012, Supplemental Questionnaire Response at Exhibit 9. Similarly, information from Lihn Sa and the GOV indicates that the firm paid a water usage rate equal to the rate charged to businesses engaged in commercial and production activities. *See* the GOV's March 30, 2012, Questionnaire response at Exhibit 3 and

the Hamico Companies' May 22, 2012, Supplemental Questionnaire Response at Exhibit 10. Therefore, we preliminarily determine that the provision of water is not specific to the industrial zones in which the respondents are located, and find that the Infinite Companies and the Hamico Companies did not use the program.

We note that, based on the record information thus far, the level of government at which the actual rate-setting authority rests remains unclear. While the GOV issues a national pricing framework for water supply, distribution and consumption, the actual published rate schedules are issued at the provincial levels on approval by the provincial governments. *See* GOV's March 30, 2012, Questionnaire Response at Exhibit 6. Hence, we will continue to examine the price-setting regime for water in Vietnam.

C. Provision of Wire Rod for LTAR

The Infinite Companies state that they only purchased wire from foreign sources during the POI. *See* the Infinite Companies' May 11, 2012, at 9 and Attachment 3. The Hamico Companies state that they did not purchase wire rod from Vietnamese sources during the POI. Instead, they report that they either imported wire rod from foreign sources or purchased wire from domestic sources.

The allegation on which the Department initiated its investigation centers on the provision of wire rod not drawn wire. We find that wire is a good that is distinct from wire rod. On this point, we note that the Hamico Companies have submitted source documents (*e.g.,* invoices) which indicate the specifications (*e.g.,* diameter) of the wire they purchased from domestic sources during the POI. *See* the Hamico Companies' May 16, 2012, supplemental questionnaire response at Exhibits 1–4. Our review of these source documents, confirms our preliminary finding that the inputs the Hamico Companies purchased from domestic sources constitute wire products and not wire rod. Thus, we find that purchases of wire rod from non-Vietnamese sources are not subject to our subsidy analysis. On this basis, we preliminarily determine that respondents did not use the provision of wire rod for LTAR program during the POI.

In addition, we preliminarily determine that respondents did not use the programs listed below:

D. Export Promotion Program

E. Land Rent Reduction/Exemption for Exporters

F. Land-Rent Reduction or Exemption for Foreign Invested Enterprises (''FIEs'')

G. Income Tax Preferences for FIEs

H. Income Tax Refund for Reinvestment by FIEs

I. Income Tax Preferences in Industrial Zones

J. Import Duty Preferences for FIEs

**Verification**

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

**Suspension of Liquidation**

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual rates for the respondents individually investigated, the Hamico Companies and the Infinite Companies. We preliminarily determine the total estimated net countervailable subsidy rates to be:

| Exporter/manufacturer | Net subsidy rate (percent) |
|---|---|
| South East Asia Hamico Export Joint Stock Company (SEA Hamico), Nam A Hamico Export Joint Stock Company (Nam A), and Linh Sa Hamico Company Limited (Linh Sa) (collectively, the Hamico Companies) | 21.25 |
| Infinite Industrial Hanger Limited (Infinite) and Supreme Hanger Company Limited (Supreme) (collectively the Infinite Companies) | 11.03 |
| All Others | 16.14 |

Sections 703(d), 705(c)(1)(B)(i)(I), and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weight-averaging the individual subsidy rates by each company's exports of the subject merchandise to the United States. However, the all-others rate may not include zero and *de minimis* rates or any rates based solely on the facts available.[27] In this preliminary determination, the calculated net subsidy rate for the Hamico Companies and the Infinite Companies are above *de minimis.* Notwithstanding the language of sections 705(c)(1)(B)(i)(I), and 705(c)(5)(A) of the Act, we have not calculated the all others rate by weight averaging the rates of the Hamico and Infinite Companies because doing so risks disclosure of proprietary information. Therefore, for the all others rate, we have calculated a simple average of the respondents' net subsidy rates.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of steel wire garment hangers from Vietnam that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above.[28]

**ITC Notification**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly, or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

**Disclosure and Public Comment**

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the deadline for submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the

[27] Pursuant to 19 CFR 351.204(d)(3), the Department must also exclude the countervailable subsidy rate calculated for a voluntary respondent. In this investigation, we had no producers or exporters request to be voluntary respondents.

[28] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

Department. Executive summaries should be limited to five pages total, including footnotes.

In accordance with 19 CFR 351.310(c), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce. Parties will be notified of the schedule for the hearing, and parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) Party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: May 29, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012–13474 Filed 6–1–12; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–844]**

### Narrow Woven Ribbons With Woven Selvedge From Taiwan: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (Department) is conducting the first administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge (narrow woven ribbons) from Taiwan. The sole mandatory respondent in this administrative review, Hubschercorp, did not respond to the Department's questionnaire. As a result, we have preliminarily assigned Hubschercorp a margin based on adverse facts available (AFA). The period of review (POR) is September 1, 2010, through August 31, 2011.

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

**DATES:** *Effective Date:* June 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** Holly Phelps, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0656.

**SUPPLEMENTARY INFORMATION:**

#### Background

In September 2010, the Department published in the **Federal Register** an antidumping duty order on narrow woven ribbons from Taiwan.[1] On September 2, 2011, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on narrow woven ribbons from Taiwan for the period September 1, 2010, through August 31, 2011.[2] In response to a timely request from the petitioner, Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, Inc., pursuant to 19 CFR 351.213(b)(1), the Department initiated an administrative review for the following ten companies: (1) Apex Ribbon; (2) Apex Trimmings; (3) FinerRibbon.com; (4) Hubschercorp; (5) Intercontinental Skyline; (6) Multicolor Inc.; (7) Pacific Imports; (8) Papillon Ribbon & Bow (Canada); (9) Shienq Huong Enterprise Co., Ltd./Hsien Chan Enterprise Co., Ltd./Novelty Handicrafts Co., Ltd.; and (10) Supreme Laces, Inc.[3]

In November 2011 and January 2012, we requested that each company named in the *Initiation Notice* provide data on the quantity and value (Q&V) of its exports of subject merchandise to the United States during the POR. We received responses to the Q&V questionnaires during the period November 2011 through January 2012.

On January 30, 2012, the petitioner withdrew its request for an administrative review for all companies named in the *Initiation Notice* except Hubschercorp. On this same date, we issued the antidumping duty questionnaire to Hubschercorp.

On February 17, 2012, we rescinded the review with respect to the following companies: (1) Apex Ribbon; (2) Apex Trimmings; (3) FinerRibbon.com; (4) Intercontinental Skyline; (5) Multicolor Inc.; (6) Pacific Imports; (7) Papillon Ribbon & Bow (Canada); (8) Shienq Huong Enterprise Co., Ltd./Hsien Chan Enterprise Co., Ltd./Novelty Handicrafts Co., Ltd.; and (9) Supreme Laces, Inc.[4]

Also on February 17, 2012, Hubschercorp contacted the Department to inform us that it was having difficulty in responding to the Department's questionnaire and that it may not be able to participate in this review. On February 21, 2012 (*i.e.,* the due date for the first portion of the questionnaire response), we followed up with Hubschercorp to determine whether the company intended to participate in the administrative review. On February 24, 2012, Hubschercorp informed the Department that it did not intend to respond to the questionnaire or participate in the administrative review.[5] Therefore, in accordance with section 776(a)(2)(A), (B) and (C) of the Tariff Act of 1930, as amended (the Act), for these preliminary results, the Department has applied facts otherwise available with an adverse inference when determining Hubschercorp's rate. *See* the section ''Use of Facts Otherwise Available and AFA,'' below, for further discussion.

#### Scope of the Order

The scope of this order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene teraphthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

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[1] *See Narrow Woven Ribbons with Woven Selvedge from Taiwan and the People's Republic of China: Antidumping Duty Orders,* 75 FR 53632 (Sept. 1, 2010), as amended in *Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders,* 75 FR 56982 (Sept. 17, 2010).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 76 FR 54735, 54736 (Sept. 2, 2011).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 67133, 67138 (Oct. 31, 2011); and *Correction to Initiation of 2010–2011 Antidumping Duty Administrative Review: Narrow Woven Ribbons With Woven Selvedge From Taiwan,* 77 FR 82 (Jan. 3, 2012) (*Initiation Notice*).

[4] *See Narrow Woven Ribbons With Woven Selvedge From Taiwan: Rescission, in Part, of Antidumping Duty Administrative Review,* 77 FR 9624 (Feb. 17, 2012).

[5] *See* the February 27, 2012, Memorandum to the File From Elizabeth Eastwood, Senior Analyst, and Holly Phelps, Analyst, entitled, ''Phone Conversation With Hubschercorp Regarding the 2010–2011 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan'' (Hubschercorp Memo), for further discussion of our correspondence with Hubschercorp.

• Also include natural or other non-man-made fibers;

• Be of any color, style, pattern, or weave construction, including but not limited to single-faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;

• Have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;

• Have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;

• Have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;

• Have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;

• Have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;

• Consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an ''ornamental trimming;''

• Be wound on spools; attached to a card; hanked (*i.e.,* coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or

• Be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this antidumping duty order.

Excluded from the scope of the order are the following:

(1) Formed bows composed of narrow woven ribbons with woven selvedge;

(2) ''Pull-bows'' (*i.e.,* an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;

(3) Narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (*i.e.,* filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;

(4) Narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;

(5) Narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;

(6) Narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;

(7) Cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;

(8) Narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;

(9) Narrow woven ribbons constructed from pile fabrics (*i.e.,* fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);

(10) Narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) Narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a ''belly band'' around a pair of pajamas, a pair of socks or a blanket;

(12) Narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and

(13) Narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

**Use of Facts Otherwise Available and AFA**

Section 776(a) of the Act provides that the Department shall apply ''facts otherwise available'' if: (1) Necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

As noted in the ''Background'' section, above, Hubschercorp did not respond to the Department's questionnaire in this administrative review and informed the Department that it did not intend to participate in this review. *See* Hubschercorp Memo. As a result, Hubschercorp did not provide requested information that is necessary for the Department to

calculate an antidumping duty rate for the company in this administrative review. Therefore, in reaching these preliminary results, pursuant to section 776(a) of the Act, the Department has based Hubschercorp's antidumping duty rate on facts otherwise available on the record.

By only responding to the Department's Q&V questionnaire and failing to respond to the Department's antidumping questionnaire, Hubschercorp withheld requested information and significantly impeded this proceeding. Thus, pursuant to section 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available is appropriate.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar From India,* 70 FR 54023, 54025–26 (Sept. 13, 2005); *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod From Brazil,* 67 FR 55792, 55794–96 (Aug. 30, 2002). Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final rule,* 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp.* v. *United States,* 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon*). We preliminarily find that Hubschercorp did not act to the best of its ability in this administrative review, within the meaning of section 776(b) of the Act, because it failed to respond to the Department's requests for information and provide timely information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to this company. *See Nippon,* 337 F.3d at 1382–83.

**Selection of the AFA Rate**

Section 776(b) of the Act provides that the Department may use as AFA information derived from: (1) The petition; (2) the final determination in the investigation; (3) any previous review; or (4) any other information placed on the record.

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to select the highest rate on the record of the proceeding and to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part,* 71 FR 65082, 65084 (Nov. 7, 2006).

As a result, we have preliminarily assigned to Hubschercorp a rate of 137.20 percent, which is the highest rate alleged in the petition, as noted in the initiation of the less-than-fair-value (LTFV) investigation. *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations,* 74 FR 39291 (Aug. 6, 2009) (*LTFV Initiation*).

**Corroboration of Secondary Information**

Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department's regulations provide that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* 19 CFR 351.308(d); *see also* SAA at 870. To be considered corroborated, the Department must find the secondary information is both reliable and relevant.[6]

To determine whether the information is reliable, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of these preliminary results. *See LTFV Initiation* at 39294–39295. We examined evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of these preliminary results. Based on our examination of the information, as discussed in detail in *LTFV Initiation,* we consider the petitioner's calculation of the export price and normal value to be reliable. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the petition are reliable for the purposes of this administrative review.

To determine the relevance of the petition margin, we compared it to the model-specific rates calculated for the respondents in the LTFV investigation. We find that this margin is relevant because this is the first review under this order (*i.e.,* only one segment removed from the LTFV investigation), and the petition rate fell within the range of model-specific margins calculated for two of the three mandatory respondents in the LTFV investigation. *See e.g., Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 12088, 12092 (Mar. 6, 2008), unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 50933 (Aug. 29, 2008). *See also* the Memorandum to the File from Holly Phelps, Analyst, entitled, ''Placement of Proprietary Model-Specific Margins from the Less-Than-Fair-Value Investigation on the Record and Corroboration of Adverse Facts Available Rate for the Preliminary Results in the 2010–2011 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan,'' dated May 29, 2012 (Corroboration Memo). Therefore, we have determined that the 137.20 percent margin is appropriate as AFA and are assigning it to Hubschercorp.

Further, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the

[6] *See, e.g.,* SAA at 870; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (Nov. 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (Mar. 13, 1997).

selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available. We were unable to find any information that would discredit the selected AFA rate.

Based on the above, for these preliminary results, the Department finds the highest rate derived from the petition (*i.e.,* 137.20 percent) is therefore corroborated to the extent practicable. Thus, we have assigned Hubschercorp this rate as AFA in this administrative review. For further discussion of the corroboration of this rate, see the Corroboration Memo.

**Preliminary Results of the Review**

We preliminarily determine that the following weighted-average dumping margin exists for the period September 1, 2010, through August 31, 2011:

| Manufacturer/exporter | Percent margin |
|---|---|
| Hubschercorp | 137.20 |

**Disclosure and Public Hearing**

The Department will disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than the later of 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. *See* 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. *See* 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

For Hubschercorp's U.S. sales, we will base the assessment rate assigned to the corresponding entries on AFA, determined as noted above.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable. *See* section 751(a)(2)(C) of the Act.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Hubschercorp will be that established in the final results of this review; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.37 percent, the all-others rate made effective by the *Notice of Final Determination of Sales at Less than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan,* 75 FR 41804 (July 19, 2010). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: May 29, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012–13476 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–813]**

### Certain Preserved Mushrooms From India: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

**FOR FURTHER INFORMATION CONTACT:** Katherine Johnson or Terre Keaton Stefanova, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–1280, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 1, 2012, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request

Administrative Review'' of the antidumping duty order on certain preserved mushrooms from India for the period of review (POR) of February 1, 2011, through January 31, 2012.[1]

On February 29, 2012, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), the Department received a timely request from Monterey Mushrooms, Inc. (the petitioner), a petitioner and a domestic interested party, to conduct an administrative review of the sales of Agro Dutch Foods Limited (Agro Dutch Industries Limited) (Agro Dutch), Himalya International Ltd. (Himalya), Hindustan Lever Ltd. (formerly Ponds India, Ltd.) (Hindustan), Transchem Ltd. (Transchem), and Weikfield Foods Pvt. Ltd (Weikfield). The petitioner was the only party to request this administrative review.

On March 30, 2012, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to the above-named companies.[2]

On May 10, 2012, the petitioner timely withdrew its request for a review of Himalya, Hindustan, Transchem and Weikfield.

**Partial Rescission of Review**

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. The petitioner withdrew its request for review before the 90-day deadline, and no other party requested an administrative review of the antidumping duty order on certain preserved mushrooms from India for the POR. Therefore, in response to the petitioner's withdrawal of its request for review of Himalya, Hindustan, Transchem and Weikfield and pursuant to 19 CFR 351.213(d)(1), we are rescinding this review with regard to these companies. The instant review will continue with respect to Agro Dutch.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 77 FR 4990 (February 1, 2012).

[2] *See Initiation of Antidumping Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review,* 77 FR 19179 (March 30, 2012).

**Assessment**

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

**Notification to Importers**

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification Regarding Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 25, 2012.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–13475 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before (Insert date 20 days after publication in the **Federal Register**). Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

*Docket Number:* 12–024. Applicant: Department of Mechanical Engineering, Texas A&M University, 3123 TAMU, College Station, TX 77843–3123. Instrument: Arc melting system. Manufacturer: Edmund Beuhler GmbH, Germany. Intended Use: The instrument will be used to fabricate bulk nanostructured metals and metallic glasses, in particular Mg based alloys, CuNb, NiAl, Nb based alloys and metal matrix composites with oxide nanoparticles. It will be used to investigate the influence of suction casting on the formation of nanostructures in casted alloys, and to study the behavior of these casted alloys, in order to design radiation tolerant and impact resistant high strength alloys with unique microstructures. Pertinent features of this instrument include the capability of suction casting and ceramic powder feed-through for the addition of oxide nanoparticles during the melting of metals. Suction casting is required to achieve nanocrystalline grains, and ceramic powder feed-through will be used to mix ceramic powders with melted metals to achieve metal based nanocomposites. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 25, 2012.

Dated: May 29, 2012.

**Gregory W. Campbell,**

*Director of Subsidies Enforcement, Import Administration.*

[FR Doc. 2012–13482 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 25, 2012. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

*Docket Number:* 12–022. *Applicant:* University of Connecticut, 91 N. Eagleville Rd., BSP Bldg Unit 3242, Storrs, CT 06269. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to examine tapeworms of sharks and stingrays, microbial mats, mosses, lichens, algae, diatoms, and other samples. The experiments aim to explore the morphology and anatomy of various plants and animals as a source of information for the assessment of systematics and phylogenetic relationships, as well as other objectives such as investigating the 3–D structure of nanosize films and ceramic fiber composites, and exploring the mechanical properties and arrangement of fibers in heart valves. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 24, 2012.

*Docket Number:* 12–023. *Applicant:* Howard Hughes Medical Institute, 4000 Jones Bridge Rd., Chevy Chase, MD 20815. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* The instrument will be used to examine the ultrastructural organization of complex biological specimens such as protein complexes, noninfectious virus and small cells at high resolution to help elucidate their function. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* April 24, 2012.

Dated: May 29, 2012.

**Gregory W. Campbell,**

*Director of Subsidies Enforcement, Import Administration.*

[FR Doc. 2012–13481 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XA289

### Takes of Marine Mammals Incidental to Specified Activities; Pile Driving in the Columbia River, WA

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Port of Vancouver, USA (Port), allowing the take of small numbers of marine mammals, by Level B harassment only, incidental to pile driving during construction of the Terminal 5 Bulk Potash Handling Facility.

**DATES:** Effective November 1, 2012, through October 31, 2013.

**ADDRESSES:** A copy of the IHA, the application, and the Environmental Assessment are available by writing to Tammy Adams, Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway Silver Spring, MD 20910–3225 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specific geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is published in the **Federal Register** and provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) further established a 45-day time limit for NMFS' review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

### Summary of Request

On February 22, 2011, NMFS received an application from the Port of Vancouver, USA (Port), requesting an IHA for the take, by Level B harassment, of small numbers of Pacific harbor seals (*Phoca vitulina richardii*), California sea lions (*Zalophus californianus*), and Steller sea lions (*Eumatopius jubatus*)

incidental to pile driving activities conducted during the construction of the Terminal 5 Bulk Potash Handling Facility. In accordance with MMPA implementing regulations, NMFS issued a notice in the **Federal Register** on August 19, 2011 (76 FR 51947), requesting comments from the public on the proposed IHA.

**Description of the Specified Activity**

A complete description of the specified activity may be found in NMFS' proposed IHA document in the **Federal Register** (76 FR 51947, August 19, 2011). A summary of that document, along with some minor project changes, is provided here. The project will involve construction of a potash handling facility at river mile 103.3 along the Columbia River in Vancouver, Washington. To support the new facility, a maximum of 195 (as opposed to the originally proposed 203) steel piles will be installed in the Columbia River at the project site (specifically, Terminal 5) using vibratory and impact pile driving. These piles are necessary for construction of a ship loading system and marine berthing facilities. The originally proposed installation of piles for stormwater outfall is no longer planned. A breakdown of pile size and associated activity are shown in Table 1.

TABLE 1—SUMMARY OF PILE INSTALLATION ACTIVITIES

| Activity | Number of Piles (maximum) | Location |
|---|---|---|
| Installation of permanent piles for ship loader and berth. | 5, 54-in (1,372-mm) and 95 48-in (1,220-mm) steel pipe piles. | River mile 103.3. |
| Installation and removal of temporary piles during construction of ship loader and berth. | 95, 18- to 24-in (457- to 610-mm) steel pipe piles. | |
| Removal of old piles | 177, 16-in wood piles, 31, 16-in wood piles | River mile 105, River mile 103.3. |

The 100 48–54-in (1,220–1,372-mm) steel pipe piles will be used for quadrant beams and pivot supports, the mooring dolphins and maintenance platform, access trestles, and as a contingency should additional piles be required. Approximately two piles will be installed per day over a four-month period. Although the exact duration of pile driving will vary depending on the installation procedures and geotechnical conditions, the applicant estimates that each permanent pile will require between two and three hours of vibratory installation and between one and two hours of impact driving to install. To the extent possible, all piles will be installed with an APE Model 200 (or similar) vibratory hammer; however, it may be necessary to seat a pile using an impact hammer. The temporary piles (18- to 24-in diameter) will be driven solely with a vibratory hammer. Should an impact hammer be necessary for finishing the installation of permanent piles, the Port will use a DELMAG D46–32 with 60–80 maximum blows per foot, a DELMAG D80 with 20–30 maximum blows per foot, or a similar model. Sound attenuation devices, such as a bubble curtain, will be used during any impact hammering.

In addition to pile installation, a total of 303 piles will also be removed using vibratory extraction or a crane. These consist of the 95 temporary piles and 31 existing wood piles at Terminal 5 and 177 old wood piles upstream of Terminal 5 (Table 1). The 177 wood piles are located at Terminal 2, about two miles upstream from Terminal 5, and do not have much structural capacity. A pneumatic underwater chainsaw may be used if a pile breaks in the process, but associated noise is expected to be negligible. Above-water work will also be necessary to complete construction of each project component. There could be barges in the water to support construction activities; however, these will be concentrated in the direct vicinity of Terminal 5. Because pile repair, pile removal, and use of barges do not release loud sounds into the environment, marine mammal harassment from these activities is not anticipated.

*Dates of Activity*

The Washington Department of Fish and Wildlife's recommended in-water work window for this area is November 1 through February 28. Timing restrictions such as this are used to avoid in-water work when listed species are most likely to be present. Proposed pile installation and removal activities are scheduled to occur between November 1, 2012, and February 28, 2013, with the possible exception of the five 54-in (1,372-mm) piles. These five piles may be installed outside of the in-water work window if they can be installed during low water periods under dry conditions.

*Sound Propagation*

For background, sound is a mechanical disturbance consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound's loudness and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change. For example, 10 dB yields a sound level 10 times more intense than 1 dB, while a 20 dB level equates to 100 times more intense, and a 30 dB level is 1,000 times more intense. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are ''re: 20 μPa'' and ''re: 1 μPa,'' respectively. Root mean square (RMS) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). RMS accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units rather than by peak pressures.

Data from a Washington State Department of Transportation (WSDOT) test pile project for the Columbia River Interstate 5 project (also known as the Columbia River Crossing project) was used for the impact and vibratory pile driving noise analysis for 48-in (1,220-mm) steel pipe piles (DEA, 2011). There is a lack of information related to sound levels for 54-in (1,372-mm) pile installations; therefore, noise levels recorded for and the installation of 60-

in (1,524-mm) piles (attenuated) at Port Townsend, Washington, using similar equipment were used to estimate sound levels (WSDOT, 2011). Based on the sound levels identified during this study, and a 10-dB reduction recommended by WSDOT for the use of a bubble curtain, it was determined that the estimated sound levels for a 60-in (1,524-mm) diameter pile in the dry during low water would be similar to the sound levels produced by a 48-in attenuated pile in the Columbia River for both impact and vibratory methods. Maximum sound levels for impact and vibratory pile driving are shown in Table 2. No reference underwater sound levels are available for this area, so 120 dB RMS (the lowest potential impact threshold for marine mammals) was used as a surrogate (WSDOT, 2010a). The Port applied a practical spreading loss model to calculate sound propagation, which assumes that noise attenuates at a rate of 4.5 dB per doubling distance, and this attenuation rate increases to 10 dB per doubling distance beyond 0.6 mile (1 km) (WSDOT, 2010a). Using this model, the largest noise impact zone is expected to result from vibratory pile driving of 48-in (1,220-mm) steel pipe piles. It may take up to 7 miles (11 km) for underwater sound to attenuate to below 120 dB. Because of the project area's location on a river bend and across from Hayden Island, sound transmission will be stopped by land masses much earlier in certain directions. In-air sound from pile driving also has the potential to affect marine mammals. However, in-air sound is not a concern here because there are no pinniped haul-out sites near the project area.

TABLE 2—MAXIMUM SOUND LEVELS FOR IMPACT AND VIBRATORY INSTALLATION OF STEEL PILES

| Pile diameter | Sound level (single strike)[1] with attenuation | | | Sound level (vibratory)[1] |
|---|---|---|---|---|
| 48- to 54-inch (1,220- to 1,372-mm) | 199 $dB_{PEAK}$ | 187 $dB_{RMS}$ | 173 $dB_{SEL}$ | 174 $dB_{RMS}$ |

[1] DEA, 2011.

**Comments and Responses**

A notice of receipt and request for public comment on the application and proposed authorization was published on August 19, 2011 (76 FR 51947). During the 30-day public comment period, the Marine Mammal Commission (Commission) provided the only comments.

*Comment 1:* The Commission recommends that NMFS require the Port to measure in-situ sound propagation for driving and removing the various sizes and types of piles using the vibratory hammer, impact hammer, and both hammers concurrently at the beginning of the project and use that information to establish appropriate exclusion and buffer zones.

*Response:* The Port intends to conduct hydroacoustic monitoring to record the sound generated during impact pile driving. Hydroacoustic monitoring will take place while the first five piles are installed using an impact hammer at the Terminal 5 location. Information gained from this monitoring effort will be used to verify the exclusion and harassment zones.

*Comment 2:* The Commission recommends that NMFS require the presence of approved observers before, during, and after all soft-starts of pile driving activities, including when the vibratory hammer is used, to gather the data needed to determine the effectiveness of this technique as a mitigation measure.

*Response:* NMFS disagrees that the Port needs to monitor for marine mammals before, during, and after all soft-starts. Protected species observers will be on-site and monitoring for marine mammals at least 20 minutes prior to, during, and after all impact hammering (including during soft-starts) and at least two full days per week during all vibratory pile hammering. NMFS believes that monitoring for at least two pile driving days per week will allow for adequate interpretation of how marine mammals are behaving in response to pile hammering, including during soft-starts.

*Comment 3:* The Commission recommends that NMFS require the Port to monitor the presence and behavior of marine mammals during all impact and vibratory pile driving and pile removal activities.

*Response:* As stated in the proposed IHA, marine mammal monitoring will occur 20 minutes before, during, and 20 minutes after all impact pile driving activities. In addition, at least two protected species observers will conduct behavioral monitoring at least two days per week during vibratory pile driving to estimate take and evaluate the behavioral impacts that pile driving has on marine mammals. NMFS believes this is an adequate effort of monitoring because sounds from vibratory pile driving will not exceed the Level A harassment threshold and sounds from impact pile driving only exceed the Level A harassment threshold 21 m (70 ft) from the source.

*Comment 4:* The Commission recommends that NMFS condition the IHA to require the Port to (1) immediately report all injured or dead marine mammals to NMFS and local stranding network and (2) suspend the construction activities if a marine mammal is seriously injured or killed and the injury or death could have been caused by those activities (e.g., a fresh carcass). If additional measures are not likely to reduce the risk of additional serious injuries or deaths to a very low level, the Commission recommends that NMFS require the Port to obtain the necessary authorization for such takings before resuming construction activities.

*Response:* NMFS includes language in Incidental Take Authorizations (ITAs) that requires the applicant to immediately report any taking of a marine mammal in a manner prohibited by the authorization. The applicant is required to postpone activities until NMFS is able to review the circumstances of the take. Furthermore, if the applicant discovers an injured or dead marine mammal, but the cause of such injury or death is not related to the specified activities, the applicant must contact NMFS within 24 hours of the discovery.

**Description of Marine Mammals in the Area of the Specified Activity**

Three marine mammal species have known distribution ranges that include the proposed project area: Pacific harbor seal, California sea lion, and Steller sea lion. These species may use the proposed project area as a seasonal transit corridor to and from the Bonneville Dam. Information on these species was provided in the August 19, 2011, **Federal Register** document (76 FR 51947). Since that notice published, NMFS has proposed to delist the eastern distinct population segment of Steller sea lions after determining that this distinct population segment has recovered and no longer meets the definition of a threatened species under the ESA (77 FR 23209, April 18, 2012).

**Potential Effects on Marine Mammals**

Pile driving and removal at the Terminal 5 site may temporarily impact marine mammal behavior within the action area due to elevated in-water noise levels. A detailed description of potential impacts to marine mammals can be found in NMFS' August 19, 2011, **Federal Register** document (76 FR 51947) and are summarized here.

Marine mammals produce sounds in various contexts and use sound for various biological functions including, but not limited to, (1) social interactions; (2) foraging; (3) orientation; and (4) predator detection. Interference with producing or receiving these sounds may result in adverse impacts. Audible distance or received levels will depend on the sound source, ambient noise, and the sensitivity of the receptor (Richardson *et al.,* 1995). Marine mammal reactions to sound may depend on sound frequency, ambient sound, what the animal is doing, and the animal's distance from the sound source (Southall *et al.,* 2007).

*Hearing Impairment*

Marine mammals may experience temporary or permanent hearing impairment when exposed to loud sounds. Hearing impairment is classified by temporary threshold shift (TTS) and permanent threshold shift (PTS). There are no empirical data for when PTS first occurs in marine mammals; therefore, it must be estimated from when TTS first occurs and from the rate of TTS growth with increasing exposure levels. PTS is likely if the animal's hearing threshold is reduced by ≥ 40 dB of TTS. PTS is considered auditory injury (Southall *et al.,* 2007) and occurs in a specific frequency range and amount. Due to proposed mitigation measures and source levels in the proposed project area, NMFS does not expect marine mammals to be exposed to PTS levels.

*Temporary Threshold Shift (TTS)*

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be louder in order to be heard. TTS can last from minutes or hours to days, occurs in specific frequency ranges (i.e., an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can occur to varying degrees (e.g., an animal's hearing sensitivity might be reduced by 6 dB or by 30 dB). For sound exposures at or somewhat above the TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals. Southall *et al.* (2007) considers a 6 dB TTS (i.e., baseline thresholds are elevated by 6 dB) sufficient to be recognized as an unequivocal deviation and thus a sufficient definition of TTS-onset. Because it is non-injurious, NMFS considers TTS as Level B harassment that is mediated by physiological effects on the auditory system; however, NMFS does not consider onset TTS to be the lowest level at which Level B harassment may occur. Southall *et al.* (2007) summarizes underwater pinniped data from Kastak *et al.* (2005), indicating that a tested harbor seal showed a TTS of around 6 dB when exposed to a non-pulse noise at SPL 152 dB re: 1 μPa for 25 minutes. In contrast, a tested sea lion exhibited TTS-onset at 174 dB re: 1 μPa under the same conditions as the harbor seal. Data from a single study on underwater pulses found no signs of TTS-onset in sea lions at exposures up to 183 dB re: 1 μPa (peak-to-peak) (Finneran *et al.,* 2003).

There are limited data available on the effects of non-pulse noise (for example, vibratory pile driving) on pinnipeds while underwater; however, field and captive studies to date collectively suggest that pinnipeds do not react strongly to exposures between 90 and 140 dB re: 1 microPa; no data exist from exposures at higher levels. Jacobs and Terhune (2002) observed wild harbor seal reactions to high-frequency acoustic harassment devices around nine sites. Seals came within 44 m of the active acoustic harassment devices and failed to demonstrate any behavioral response when received SPLs were estimated at 120–130 dB. In a captive study (Kastelein, 2006), scientists subjected a group of seals to non-pulse sounds between 8 and 16 kHz. Exposures between 80 and 107 dB did not induce strong behavioral responses; however, a single observation from 100 to 110 dB indicated an avoidance response. The seals returned to baseline conditions shortly following exposure. Southall *et al.* (2007) notes contextual differences between these two studies; the captive animals were not reinforced with food for remaining in the noise fields, whereas free-ranging animals may have been more tolerant of exposures because of motivation to return to a safe location or approach enclosures holding prey items. While most of the pile driving at the proposed project site would be vibratory, an impact hammer (pulse noise) may be used to complete installation and to verify the piles' strength. Vibratory and impact pile driving may result in anticipated hydroacoustic levels between 174 and 195 dB root mean square. Southall *et al.* (2007) reviewed relevant data from studies involving pinnipeds exposed to pulse noise and concluded that exposures to 150 to 180 dB generally have limited potential to induce avoidance behavior.

Vibratory pile driving emits low-frequency broadband noise, which may be detectable by marine mammals within the proposed project area. The average value of 174 dB RMS from a Washington State Department of Transportation (WSDOT) monitoring project of vibratory installation of a 48-inch (1,220-mm) steel pipe pile for the Columbia River Crossing test pile project was used in the noise analysis for vibratory and impact pile installation (DEA, 2011). There is a lack of information for the 54-inch (1,372-mm) pile installations. However, available data from WSDOT suggests that noise levels from driving of 60-in (1,524-mm) steel piles (with 10-dB reduction for the use of attenuation for impact pile driving) in the dry will be similar to that for 48-in (1,220-mm) piles installed in the Columbia River for both impact and vibratory methods (WSDOT, 2011).

No impacts to pinniped reproduction are anticipated because there are no known haul-outs or rookeries within the proposed project area. NMFS expects any impacts to marine mammal behavior to be temporary, Level B harassment, for two reasons: First, animals may avoid the area around the hammer, thereby reducing their exposure to elevated sound levels; and second, pile driving will not occur continuously throughout the day; the vibratory hammer will operate for about 2–3 hours per pile and the impact hammer will operate for about 1–2 hours per pile. Pile driving activities will only occur during daylight hours. The applicant anticipates an average of two pilings to be driven per day, resulting in a total of 6–10 hours of pile driving within a 24-hour period. Disturbance to marine mammal behavior may be in the form of temporary avoidance or alteration of transiting near the pile driving location. In addition, because a vibratory hammer will be used as much as possible, and the 190 dB isopleth for the impact hammer is 10 ft (3 m), marine mammal injury or mortality is not likely. Impact pile driving will cease if a marine mammal is observed nearing or within the 190 dB isopleth. For these reasons, NMFS expects any changes to marine

mammal behavior to be temporary and result in a negligible impact to affected species and stocks.

**Anticipated Effects on Habitat**

A small area of shallow water habitat with silt/sand substrate will be shaded (possibly affecting if/how the area is used by marine mammal prey species) by the proposed structure, but this will be minimized by placing the structure at a height which will allow for some light penetration and by lessening the width of the structure. A deep water area and shallow water area with riprap substrate will also be shaded, but these habitats provide few functions and are plentiful in the surrounding ecosystem. Pile installation and removal will result in some disturbance of the river substrate; however, this disturbance is expected to be local and temporary. Pile driving activities (i.e., temporary ensonification) may impact prey species and marine mammals by resulting in avoidance or abandonment of the area; however these impacts are also expected to be local and temporary. Overall, the proposed activity is not expected to cause significant or long-term impacts on marine mammal habitat.

The U.S. Army Corps of Engineers, Portland District, consulted with the NMFS Northwest Region on both Essential Fish Habitat and the Endangered Species Act (ESA). NMFS Northwest Region believes that the ESA Terms and Conditions are necessary and sufficient to avoid, mitigate, or offset the impact of the proposed actions on designated Essential Fish Habitat (EFH) for Pacific salmon.

**Mitigation Measures**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses. There are no subsistence hunting grounds within the action area and since the activity will not result in marine mammal mortality, the availability of marine mammals for subsistence uses will not be impacted.

*Temporal Restrictions*

The Washington Department of Fish and Wildlife recommends an in-water work window of November 1 through February 28, annually. This work window was designed to protect fish species, particularly salmonid eggs and fry. However, by limiting pile driving activities to this period of time, the peak sea lion run to and from the Bonneville Dam is also avoided. The Port will install at least 95 of their 100 piles during this in-water work window. The remaining five piles may be installed outside of the in-water work window if they can be installed during low water periods under dry conditions.

*Limited Use of an Impact Hammer*

To the extent possible, a vibratory hammer will be used to drive all piles. In the event that an impact hammer is necessary, a bubble curtain or similar noise attenuation method will be used as an attenuation device to reduce hydroacoustic sound levels to avoid the potential for injury.

*Establishment of an Exclusion Zone*

During all in-water impact pile driving, the Port will establish a preliminary marine mammal exclusion zone of 10 ft (3 m) around each pile to avoid exposure to sounds at or above 190 dB. The exclusion zone will be monitored during all impact pile driving to ensure that no marine mammals enter the 10 ft (3 m) radius. The purpose of this area is to prevent Level A harassment (injury) of any marine mammal species. An exclusion zone for vibratory pile driving is unnecessary to prevent Level A harassment as source levels will not exceed the Level A harassment threshold. The exclusion zone will be increased if hydroacoustic monitoring at the beginning of installation shows that the 190 dB isopleth is farther than 10 ft (3 m).

*Pile Driving Shut Down and Delay Procedures*

If a protected species observer sees a marine mammal within or approaching the exclusion zone prior to start of impact pile driving, the observer will notify the on-site construction manager (or other authorized individual), who will then be required to delay pile driving until the marine mammal has moved outside of the exclusion zone or if the animal has not been resighted within 15 minutes. If a marine mammal is sighted within or on a path toward the exclusion zone during pile driving, pile driving will cease until that animal has cleared and is on a path away from the exclusion zone or 15 minutes has lapsed since the last sighting.

*Soft-Start Procedures*

A ''soft-start'' technique will be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before the pile hammer reaches full energy. For vibratory pile driving, the soft-start procedure requires contractors to initiate noise from the vibratory hammer for 15 seconds at 40–60 percent reduced energy followed by a 1-minute waiting period. The procedure will be repeated two additional times before full energy may be achieved. For impact hammering, contractors will be required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets. The soft-start procedure will be conducted prior to driving each pile if vibratory hammering ceases for more than 30 minutes.

NMFS has carefully evaluated the above mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation, including consideration of personnel safety, and practicality of implementation.

Based on our evaluation of the applicant's proposed measures and the Commission's comments, NMFS has determined that the above mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Monitoring and Reporting**

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

The Port must designate at least one biologically-trained, on-site individual, approved in advance by NMFS, to monitor the area for marine mammals

20 minutes before, during, and 20 minutes after all impact pile driving activities and call for shut down if any marine mammal is observed within or approaching the designated exclusion zone (preliminarily set at 10 ft [3 m]). In addition, at least two NMFS-approved protected species observers will conduct behavioral monitoring at least 2 days per week to estimate take and evaluate the behavioral impacts pile driving has on marine mammals out to the Level B harassment isopleths. Note that for impact hammering, this distance is about 2,070 ft (631 m). For vibratory hammering, this estimated distance is about 7 mi (11 km); however, sound will dissipate before then (in about 6 mi [9.7 km]) due to the shape and configuration of the river. Protected species observers will be provided with the equipment necessary to effectively monitor for marine mammals (for example, high-quality binoculars, spotting scopes, compass, and range-finder) in order to determine if animals have entered into the exclusion zone or Level B harassment isopleth and to record species, behaviors, and responses to pile driving. In addition to visual monitoring, the Port will conduct hydroacoustic monitoring during impact hammering of the first five piles at the Terminal 5 location. This information will be used to verify the Level A exclusion zone as well as the Level B harassment isopleths.

Protected species observers will be required to submit a report to NMFS within 120 days of expiration of the IHA or completion of pile driving, whichever comes first. The report will include data from marine mammal sightings (such as species, group size, and behavior), any observed reactions to construction, distance to operating pile hammer, and construction activities occurring at time of sighting. Furthermore, the report will include data from the hydroacoustic monitoring program to help NMFS accurately analyze future pile driving activities.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), the Port shall immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Northwest Regional Stranding Coordinator at 206–526–6550 (*Brent.Norberg@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the Port to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Port may not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the Port discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), the Port will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Northwest Regional Stranding Coordinator at 206–526–6550 (*Brent.Norberg@noaa.gov*). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the Port to determine whether modifications in the activities are appropriate.

In the event that the Port discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Port will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Michael.Payne@noaa.gov* and *Michelle.Magliocca@noaa.gov* and the Northwest Regional Stranding Coordinator at 206–526–6550 (*Brent.Norberg@noaa.gov*), within 24 hours of the discovery. The Port will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Based on the Port's application and subsequent analysis, the impact of the described pile driving operations may result in, at most, short-term modification of behavior by small numbers of marine mammals within the action area. Marine mammals may avoid the area or temporarily alter their behavior at time of exposure.

Current NMFS practice regarding exposure of marine mammals to anthropogenic noise is that in order to avoid the potential for injury (PTS), cetaceans and pinnipeds should not be exposed to impulsive sounds of 180 and 190 dB or above, respectively. This level is considered precautionary as it is likely that more intense sounds would be required before injury would actually occur (Southall *et al.,* 2007). Potential for behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 160 dB for impulse sounds (such as impact pile driving) and 120 dB for non-pulse noise (such as vibratory pile driving), but below the aforementioned thresholds. These levels are also considered precautionary.

Based on empirical measurements taken by WSDOT and Caltrans (which are presented in the *Description of Specified Activities* section above), estimated distances to NMFS' current threshold sound levels from pile driving during the proposed construction activities are presented in Table 3. Effects from the removal of the 177 wood piles upstream from the main construction site are included in the 6-mi (9.7 km) Level B isopleth (based at Terminal 5) due to the river bend. The 10-ft (3-m) distance to the Level A harassment threshold provides protected species observers plenty of

time and adequate visibility to prevent marine mammals from entering the area during impact pile driving. This will prevent marine mammals from being exposed to sound levels that reach the Level A harassment threshold.

TABLE 3—MODELED UNDERWATER DISTANCES TO NMFS' MARINE MAMMAL HARASSMENT THRESHOLD LEVELS

| | Level A (190/180 dB) | Level B harassment (160 dB) | Level B harassment (120 dB) |
|---|---|---|---|
| Impact hammering with attenuation | 10 ft (3 m) | 2,070 ft (631 m) | n/a. |
| Vibratory hammering (no attenuation) | n/a | n/a | 7 mi (11 km). |

The estimated number of marine mammals that could be harassed is based on the Army Corps of Engineers' evaluation of pinniped predation on fish near the Bonneville Dam in 2010. Based on the 2010 Steller sea lion counts at Bonneville Dam, the Port requested a total take of 50 Steller sea lions. This number was reached based on the estimated 75 individuals that passed through the action area in 2010 during their migration to and from Bonneville Dam, for a total of 150 individual trips through the action area. Since almost all pile installation would occur between November 1 and February 28, the peak of the run in April and May will be avoided. The only piles that may be installed outside of this window would be installed in the dry at low water. Steller sea lion presence at the dam in January and February 2010 represented (conservatively) less than a third of the total run for the year. Therefore, the Port estimated that no more than one-third of the total run of Steller sea lions (approximately 25 individuals) could be exposed to Level B harassment. Since each individual could potentially be exposed on both the upstream and downstream trip, a total of 50 takes of Steller sea lions could occur. Upon further consultation with NMFS Northwest Regional Office, and in consideration of steadily increasing numbers of Steller sea lions since 2008, NMFS is increasing the number of Steller sea lions that could be exposed to Level B harassment. This is based on the fact that abundance estimates increased three-fold between 2009 and 2010, and may continue. Therefore, it is reasonable to assume that 2,025 individuals may make the trip to and from the dam during the proposed activity (based on a conservative three-fold increase in 2011, 2012, and again in 2013). Considering the avoidance of the peak run and potential exposure during the upstream and downstream migration, NMFS is authorizing the incidental take by Level B harassment only of 1,350 Steller sea lion exposures (accounting for one-third of the total run—about 675 animals—traveling to and from the dam). In addition, the Port requested take of 60 California sea lions (based on the same analysis that was applied for Steller sea lions) and six harbor seals (the maximum number of harbor seals documented at Bonneville Dam since 2002). These numbers take the proposed mitigation measures into consideration, but are conservative and represent the maximum number of animals expected to occur within the Level B harassment isopleth. The actual number of animals that may be harassed is likely to be significantly less.

**Negligible Impact and Small Numbers Analysis and Determination**

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a number of factors which include, but are not limited to, number of anticipated injuries or mortalities (none of which would be authorized here), number, nature, intensity, and duration of Level B harassment, and the context in which takes occur.

As described above, marine mammals will not be exposed to activities or sound levels which would result in injury (PTS), serious injury, or mortality. Pile driving will occur in shallow coastal waters of the Columbia River. The action area (waters around Terminal 5) is not considered significant habitat for pinnipeds. The closest haul-out is 50 mi (80 km) away, which is outside the project area's largest harassment zone. Marine mammals approaching the action area will likely be traveling or opportunistically foraging. The amount of take the Port requested for each species, and NMFS is authorizing, is considered small (less than five percent) relative to the estimated populations of 22,380 Pacific harbor seals, 238,000 California sea lions, and 30,403 Steller sea lions. Marine mammals may be temporarily impacted by pile driving noise. However, marine mammals are expected to avoid the area, thereby reducing exposure and impacts. Pile driving activities are expected to occur for approximately 101 days. Furthermore, this section of the Columbia River is a highly industrialized area, so animals are likely tolerant or habituated to anthropogenic disturbance, including low level vibratory pile driving operations, and noise from other anthropogenic sources (such as vessels) may mask construction related sounds. There is no anticipated effect on annual rates of recruitment or survival of affected marine mammals.

Based on the analysis contained in this notice, the proposed IHA document (76 FR 51947, August 19, 2011), and the IHA application, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS has determined that pile driving in the project area will result in the incidental take of small numbers of marine mammals by Level B harassment only and that the total taking will have a negligible impact on the affected species or stocks.

**Impact on Availability of Affected Species for Taking for Subsistence Uses**

There are no relevant subsistence uses of marine mammals implicated by this action.

**Endangered Species Act (ESA)**

The Steller sea lion is listed as endangered under the ESA with confirmed occurrence within the action area. However, on April 18, 2012, NMFS published a proposed rule to delist the eastern distinct population segment of Steller sea lions (77 FR 23209). A public comment period is open until June 18, 2012. The U.S. Army Corps of Engineers initiated Essential Fish Habitat and section 7 consultations with the NMFS Northwest Region. NMFS also consulted internally on the issuance of an IHA under section 101(a)(5)(A) of the MMPA for the take of Steller sea lions incidental to the proposed activity. The NMFS Northwest Region concluded that the action is not likely to jeopardize the continued existence of Steller sea lions

or result in the destruction or adverse modification of critical habitat.

**National Environmental Policy Act (NEPA)**

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS released an Environmental Assessment and Finding of No Significant Impact (FONSI) for the Terminal 5 project. NMFS determined that issuance of the IHA will not significantly impact the quality of the human environment and that preparation of an Environmental Impact Statement is not required.

Dated: May 29, 2012.

**Helen M. Golde,**

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

[FR Doc. 2012–13468 Filed 6–1–12; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC042**

### Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

**ACTION:** Notice of public workshops.

**SUMMARY:** Free Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops will be held in July, August, and September of 2012. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Protected Species Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2012 and will be announced in a future notice.

**DATES:** The Atlantic Shark Identification Workshops will be held July 12, August 9, and September 6, 2012.

The Protected Species Safe Handling, Release, and Identification Workshops will be held on July 11, July 18, August 22, August 29, September 5, and September 19, 2012.

See **SUPPLEMENTARY INFORMATION** for further details.

**ADDRESSES:** The Atlantic Shark Identification Workshops will be held in Fort Lauderdale, FL; Rosenberg, TX; and Manahawkin, NJ.

The Protected Species Safe Handling, Release, and Identification Workshops will be held in Corpus Christi, TX; Kitty Hawk, NC; Warwick, RI; North Charleston, SC; Manahawkin, NJ; and Clearwater, FL.

See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Pearson by phone: (727) 824–5399, or by fax: (727) 824–5398.

**SUPPLEMENTARY INFORMATION:** The workshop schedules, registration information, and a list of frequently asked questions regarding these workshops are posted on the Internet at: *http://www.nmfs.noaa.gov/sfa/hms/workshops/.*

**Atlantic Shark Identification Workshops**

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit which first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Approximately 74 free Atlantic Shark Identification Workshops have been conducted since January 2007.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit which first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location which first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

*Workshop Dates, Times, and Locations*

1. July 12, 2012, 12 p.m.–4 p.m., LaQuinta Inn & Suites, 999 W. Cypress Road, Fort Lauderdale, FL 33309.
2. August 9, 2012, 12 p.m.–4 p.m., LaQuinta Inn & Suites, 28332 SW Freeway 59, Rosenberg, TX 77471.
3. September 6, 2012, 12 p.m.–4 p.m., Holiday Inn, 151 Route 72E, Manahawkin, NJ 08050.

*Registration*

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *esander@peoplepc.com* or at (386) 852–8588.

*Registration Materials*

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

*Workshop Objectives*

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

**Protected Species Safe Handling, Release, and Identification Workshops**

Since January 1, 2007, shark limited-access and swordfish limited-access

permit holders who fish with longline or gillnet gear have been required to submit a copy of their Protected Species Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Protected Species Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 130 free Protected Species Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Protected Species Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

*Workshop Dates, Times, and Locations*

1. July 11, 2012, 9 a.m.–5 p.m., Holiday Inn, 1102 South Shoreline Drive, Corpus Christi, TX 78401.

2. July 18, 2012, 9 a.m.–5 p.m., Hilton Garden Inn, 5353 North Virginia Dare Trail, Kitty Hawk, NC 27949.

3. August 22, 2012, 9 a.m.–5 p.m., Hilton Garden Inn, 1 Thurber Street, Warwick, RI 02886.

4. August 29, 2012, 9 a.m.–5 p.m., Embassy Suites, 5055 International Boulevard, North Charleston, SC 29418.

5. September 5, 2012, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72E, Manahawkin, NJ 08050.

6. September 19, 2012, 9 a.m.–5 p.m., Holiday Inn, 3535 Ulmerton Road, Clearwater, FL 33762.

*Registration*

To register for a scheduled Protected Species Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158.

*Registration Materials*

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
- Vessel operators must bring proof of identification.

*Workshop Objectives*

The Protected Species Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish. In an effort to improve reporting, the proper identification of protected species will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species, which may prevent additional regulations on these fisheries in the future.

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

Dated: May 30, 2012.

**Carrie D. Selberg,**

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

[FR Doc. 2012–13466 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–22–P

## CONSUMER PRODUCT SAFETY COMMISSION

### Commission Agenda and Priorities; Notice of Hearing

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Notice of public hearing.

**SUMMARY:** The U.S. Consumer Product Safety Commission (''Commission'') will conduct a public hearing to receive views from all interested parties about its agenda and priorities for fiscal year 2014, which begins on October 1, 2013. Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal year 2014 will become part of the public record.

**DATES:** The hearing will begin at 10 a.m. on June 20, 2012. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Daylight Time (''EDT'') on June 13, 2012.

**ADDRESSES:** The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East West Highway, Bethesda, MD 20814. Requests to make oral presentations and texts of oral presentations should be captioned, ''Agenda and Priorities FY 2014,'' and sent by electronic mail (''email'') to: *cpsc-os@cpsc.gov,* or mailed or delivered to the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, no later than 5 p.m. EDT on June 13, 2012.

**FOR FURTHER INFORMATION CONTACT:** For information about the hearing, or to request an opportunity to make an oral presentation, please send an email to, call, or write: Todd A. Stevenson, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov;* telephone (301) 504–7923; facsimile (301) 504–0127. An electronic copy of the CPSC's budget request for fiscal year 2013 can be found at: *www.cpsc.gov/about/budperf.html.*

**SUPPLEMENTARY INFORMATION:** Section 4(j) of the Consumer Product Safety Act (''CPSA'') (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers and, to the extent feasible, to select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an

opportunity for the submission of comments.

The Commission is in the process of preparing its fiscal year 2014 Congressional Budget Request. Fiscal year 2014 begins on October 1, 2013. Through this notice, the Commission invites the public to comment on the following questions:

1. What are the priorities the Commission should consider emphasizing and dedicating resources toward in the fiscal year 2014 Congressional Budget Request?

2. What activities should the Commission consider deemphasizing in the fiscal year 2014 Congressional Budget Request?

3. How should the Commission consider measuring its progress toward achieving its priorities in the fiscal year 2014 Congressional Budget Request?

Persons who desire to make oral presentations at the hearing on June 20, 2012, should send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov,* telephone (301) 504–7923, facsimile (301) 504–0127, not later than 5 p.m. EDT on June 13, 2012. Presentations should be limited to approximately 10 minutes.

Persons desiring to make presentations must submit the text of their presentations to the Office of the Secretary not later than 5 p.m. EDT on June 13, 2012. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 10 a.m. on June 20, 2012, and it will conclude the same day.

Dated: May 30, 2012.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 2012–13429 Filed 6–1–12; 8:45 am]

**BILLING CODE 6355–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Intelligence Agency National Intelligence University Board of Visitors Closed Meeting

**AGENCY:** Department of Defense, Defense Intelligence Agency, National Intelligence University.

**ACTION:** Notice of closed meeting.

**SUMMARY:** Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the Defense Intelligence Agency National Intelligence University Board of Visitors has been scheduled as follows.

**DATES:** Tuesday, June 26, 2012 (8 a.m. to 5 p.m.) and Wednesday, June 27, 2012 (8 a.m. to 12 p.m.).

**ADDRESSES:** National Intelligence University, Washington, DC 20340–5100.

**FOR FURTHER INFORMATION CONTACT:** Dr. David R. Ellison, President, DIA National Intelligence University, Washington, DC 20340–5100 (202–231–3344).

**SUPPLEMENTARY INFORMATION:** The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the National Intelligence University.

Dated: May 29, 2012.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2012–13382 Filed 6–1–12; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Collection Requests; Comment Request

**AGENCY:** Department of Education.

**ACTION:** Correction notice.

**SUMMARY:** On May 14, 2012, the U.S. Department of Education published a 60-day comment period notice in the **Federal Register** (Page 29360, Column 1) seeking public comment for an information collection entitled, ''Exploratory Study on the Identification of English Learners with Disabilities.'' The number of school districts and schools in the abstract was incorrect. The Abstract is corrected as follows:

The purpose of this study is to learn more about current processes and personnel involved in the identification of English Learners (ELs) for special education services. The study has two main components: (1) A review of recent research on the identification of ELs with special needs, and (2) case studies of six school districts and three schools in each district. Findings will be descriptive in nature. The study is not a program evaluation and does not purport to assess program outcomes; however, findings may be useful in informing a future, nationally representative study.

The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: May 29, 2012.

**Darrin A. King,**

*Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2012–13412 Filed 6–1–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards: Technology and Media Services for Individuals With Disabilities—Models Promoting Young Children's Use of Assistive Technology

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

*Overview Information:* Technology and Media Services for Individuals with Disabilities—Models Promoting Young Children's Use of Assistive Technology; Notice inviting applications for new awards for fiscal year (FY) 2012.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327L.

**DATES:**

*Applications Available:* June 4, 2012.

*Deadline for Transmittal of Applications:* July 19, 2012.

*Deadline for Intergovernmental Review:* September 17, 2012.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the Technology and Media Services for Individuals with Disabilities program is to: (1) Improve results for students with disabilities by promoting the development, demonstration, and use of technology; (2) support educational media services activities designed to be of educational value in the classroom for students with disabilities; and (3) provide support for captioning and video description that is appropriate for use in the classroom.

*Priority:* In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674(b)(1), 674(b)(2)(A) and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*)).

*Absolute Priority:* For FY 2012, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

*Technology and Media Services for Individuals with Disabilities—Models Promoting Young Children's Use of Assistive Technology.*

*Background:*

The purpose of this priority is to support the establishment and operation of three model demonstration projects that will assist IDEA Part C and Part B preschool programs in implementing and evaluating models that promote and sustain promising practices for the effective use of assistive technology (AT) by infants, toddlers, and preschool children with disabilities and, as a result, improve their functional outcomes.

Almost 30 years of research and experience have demonstrated that ''supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities'' can enhance the education and development of children with disabilities (section 601(c)(5)(H) of IDEA). Assistive technology devices (''AT devices'') [1] and assistive technology services (''AT services'') [2] (collectively, ''AT devices and services'') help infants and toddlers with disabilities participate meaningfully in daily activities with their families and peers. They help preschool children with disabilities participate in accessing the general education curriculum. This increased participation in activities of daily living improves child development and learning (Campbell, Milbourne, Dugan, & Wilcox, 2006; Mistrett, 2004).

For infants, toddlers, and preschool children with disabilities, AT devices often consist of low-cost items and equipment that are purchased off the shelf and then adapted to improve the child's functional capabilities (e.g., electrical tape wrapped around a crayon to improve grip). AT devices also include high-cost, high-technology items that target a specific area of development (e.g., electronic communication for communication development and power mobility devices for motor and physical development).

Despite the potential benefits, the use of AT devices by infants and toddlers with disabilities who receive services under Part C of IDEA is limited. In a national survey of early intervention service (EIS) providers, 44 percent reported that either none or few of the children they served who needed AT were receiving AT devices or services (Wilcox, Guimond, Campbell, & Moore, 2006). In 2004,[3] States reported including AT on only three percent of Individualized Family Service Plans (IFSPs) (Data Accountability Center, Part C Section 618 Data). AT was listed on only four percent of the service records of infants and toddlers with disabilities who participated in the National Early Intervention Longitudinal Study (Hebbeler & Zercher, 2003).

Four major barriers contribute to the low rate at which infants, toddlers, and preschool children with disabilities and their families use AT devices and services. The barriers are the inadequacy or lack of: (1) Training for providers and families in the use of AT devices (Dugan, Campbell, and Wilcox, 2006; Dunst & Trivette, 2011; Milbourne and Campbell, 2008); (2) planning for the individual child's use of AT devices through ''child-specific AT plans'' [4] (Tots n Tech Institute, 2009, Resource Brief 5); (3) funding for costly, high-technology AT devices and services (Carlson & Ehrlich, 2006; Tots n Tech Institute, 2009, Resource Brief 3; Wilcox, Dugan, Campbell, & Guimond, 2006); and (4) programs to acquire, maintain, and reuse AT devices (Tots n Tech Institute, 2011, Resource Brief 7).

In order to overcome these barriers, there is a need to develop implementation models that build on the work of previous Office of Special Education Programs (OSEP) investments (e.g., Tots n Tech, Steppingstones of Technology Innovation) to support AT use in early intervention and preschool programs. Implementation models can promote the effective use of AT by young children with disabilities by: (1) Developing effective training of EIS and preschool program providers and families in the use of AT devices by young children; (2) helping providers identify appropriate child-specific goals and outcomes in IFSPs and Individualized Education Programs (IEPs); (3) helping providers to develop child-specific AT plans from IFSP and IEP goals; (4) identifying funding sources for costly high-tech AT devices and services; and (5) developing coordinated programs to acquire, maintain, and reuse AT devices.

Increased use of AT devices and services may lead to improved functional outcomes for infants, toddlers, and preschool children with disabilities (Campbell, Milbourne, & Wilcox, 2008). The model demonstration projects funded under this priority would be required to address each of the four major barriers to these young children's use of AT by integrating effective practices and components into implementation models that support AT use and can be replicated by other IDEA Part C and Part B preschool programs.

*Priority:*

The purpose of this priority is to support the establishment and operation of three model demonstration projects that assist IDEA Part C and Part B preschool programs to implement and evaluate models that promote and sustain promising practices for the effective use of AT by infants, toddlers, and preschool children with disabilities and, as a result, improve their functional outcomes.

To be considered for funding under this priority, applicants must meet the application requirements contained in this priority. All projects funded under this priority also must meet the programmatic and administrative requirements specified in this priority.

*Application Requirements.* An applicant must include in its application—

(a) A description of the proposed model demonstration. The description must include all the components required under paragraph (a) of the *Project Activities* section;

(b) The supporting evidence for the model as a whole, including empirical support for the components that comprise the model;

(c) A logic model that depicts at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and

[1] IDEA defines ''AT device'' as ''any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability'' and excludes a medical device that is surgically implanted or a replacement of such device (section 602(1) of IDEA).

[2] IDEA defines an ''AT service'' as ''any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device'' [section 602(2) of IDEA], and includes (1) evaluating the child's needs, (2) acquiring an AT device, (3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing AT devices, (4) coordinating and using therapies, intervention, or services with AT devices, (5) providing training or technical assistance for the child and, where appropriate, the child's family, and (6) providing training or technical assistance for professionals who serve, or are otherwise substantially involved in the major life functions of, the child (section 602(2)(A) through (F) of IDEA).

[3] OSEP stopped collecting section 618 data on early intervention services in 2005.

[4] ''Child-specific AT plans'' are plans for embedding opportunities to use AT into daily activities and routines. These plans should be in formats that best meet the child's and family's needs.

provides a framework for both formative and summative evaluations of the project;

**Note:** The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/model_and_performance.*

(d) A plan to implement the activities described in the *Project Activities* section of this priority;

(e) If the project maintains a Web site, relevant information about the model demonstration projects in a form that meets government or industry recognized standards for accessibility;

(f) Budget for attendance at the following:

(1) A one and one half-day kick-off meeting with the OSEP Project Officer to be held in Washington, DC, within four weeks after receipt of the award. At the initial kick-off meeting, OSEP personnel and the grantees will develop a project data coordination plan that includes common cross-project data collection instruments, a timeline for collecting data, and evaluation questions.

**Note:** Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP Project Officer and the grantee's Project Director or other authorized representative.

(2) A one-day annual planning meeting held in Washington, DC, with the OSEP Project Officer during years two through five of the project period.

(3) A three-day Project Directors' Conference in Washington, DC, during each year of the project period.

(4) Two two-day trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

*Project Activities.* To meet the requirements of this priority, each project, at a minimum, must conduct the following activities:

(a) Refine the model proposed in the application. The model must include, at a minimum, the following components:

(1) Practice components, including—

(i) Methods to develop child-specific AT plans for infants, toddlers, and preschool children with disabilities;

(ii) Evidence-based training for providers in implementing child-specific AT plans for infants, toddlers, and preschool children with disabilities, including training in evaluating the AT needs of these children, selecting AT, using AT with these children, training families in implementing child-specific AT plans in all settings (e.g., home, community, etc.), maintaining and adapting AT devices, evaluating children's use of AT, and identifying funding options for AT;

(iii) Methods to develop effective local programs for re-use of AT by infants, toddlers, and preschool children with disabilities or methods to coordinate effective existing AT re-use programs; and

(iv) Methods to modify local policies and procedures to facilitate the use of AT with infants, toddlers, and preschool children with disabilities and their families.

(2) Implementation components, such as—

(i) Procedures for selecting [5] and recruiting three local programs (at least one must be an IDEA Part C program, and at least one must be an IDEA Part B preschool program) willing to participate in the proposed model demonstration project. The programs may be from different States. Successful applicants will determine the final programs in consultation with the OSEP Project Officer;

(ii) A description of the programs and the demographics of the populations served, and whether the programs are serving infants, toddlers, and preschool children with disabilities in rural or urban areas;

(iii) Strategies to identify and to allocate human resources among the project and program staff;

(iv) Approaches to initial and ongoing professional development, including coaching, for personnel involved in implementing the model;

(v) Methods for evaluating the quality and implementation of child-specific AT plans for infants, toddlers, and preschool children with disabilities in terms of improved child and family outcomes, quality and implementation of professional development, and the effectiveness of modifications to local policies, processes, and procedures;

(vi) Approaches to measuring the fidelity of the implementation of the model; and

(vii) Approaches to measuring the social validity of the model, i.e., the satisfaction of program staff, providers, and families with respect to the model processes and outcomes.

(3) Sustainability components, such as a plan for—

(i) Transferring over time the responsibility for project support to the personnel at the participating programs; and

(ii) Continuing opportunities for program staff to receive professional development after the project ends.

[5] For factors to consider when selecting model demonstration sites, the applicant should refer to *Assessing Sites for Model Demonstration: Lessons Learned for OSEP Grantees* at *http://mdcc.sri.com/documents/reports/MDCC_Site_Assessment_Brief_09-30-11.pdf.* The document also contains a site assessment tool.

(b) Implement the model in the participating IDEA Part C and Part B preschool programs identified under paragraph (a) of this section. For purposes of this priority, these three sites are referred to as Programs A, B, and C. Program A will implement the project's model demonstration one year ahead of Programs B and C and will implement the model demonstration for a minimum of four years. Programs B and C will implement the project's model demonstration one year after Program A and will implement the model demonstration for a minimum of three years.

(c) In accordance with the project's logic model and data coordination plan for the funded projects, collect summative evaluation data on child and family outcomes as a result of AT use including, at a minimum—

(1) Changes in the positive social-emotional skills (including social relationships) of the infants, toddlers, and preschool children with disabilities served;

(2) Changes in the acquisition and use of knowledge by the infants, toddlers, and preschool children with disabilities served;

(3) Changes in the use of appropriate behavior to meet their needs by the infants, toddlers, and preschool children with disabilities served; and

(4) Changes in the ability of the families served to help their infants, toddlers, and preschool children with disabilities develop and learn.

(d) In accordance with the project's logic model and data collection plan for the funded projects, collect summative evaluation data (including estimates of the cost of implementing the model) on the program outcomes, including at a minimum:

(1) Changes to policies, procedures, or data collection systems in the programs and the effect of those changes on the program; and

(2) Changes to resource allocations in the programs.

(e) Implement a formative evaluation plan, consistent with the project's logic model and the data collection plan, to include periodic collection of child, family, and program data in addition to other largely formative data relating to fidelity of implementation, stakeholder acceptability, and descriptions of the site context. The plan must outline how these data will be reviewed by the project, when they will be reviewed, and how they will be used during the course of the project to adjust the model or its implementation in an effort to increase the model's usefulness, validity, generalizability, and potential for sustainability.

(f) Participate in discussions, facilitated by the OSEP-funded Model Demonstration Coordination Center (MDCC), with the three projects on the development of a data collection and coordination plan that includes standard evaluation questions and data collection instruments; a standard approach to the synthesis and analysis of data; acceptable variations for the measurement of implementation fidelity, model acceptability, and data reliability; and collaborative efforts to disseminate information. Projects must participate in the implementation of the data collection and coordination plan. The program data collected as part of the plan may or may not be the same as those initially proposed by the applicant, and these may include child and family measures, implementation measures (e.g., qualitative descriptions of activities), and site contextual data. Projects must be prepared to share data with the MDCC in the process of implementing the data collection and coordination plan. The projects must agree to cooperate with any Department-sponsored independent evaluation of the model demonstration by providing the Department or its contractor with administrative records on the children and families served.

**Note:** In support of its particular model demonstration, a project may propose to collect data that will not be collected by all projects and may analyze these data as proposed in the application.

(g) Initiate a process for carefully documenting the model's practice components, implementation processes, and implementation tools and guides sufficient to allow for replication of the model, should the model prove effective.

(h) Communicate and collaborate on an ongoing basis with Department-funded centers to share information on successful strategies and implementation challenges regarding AT use by infants, toddlers, and preschool children with disabilities and their families; provider and family training on AT; funding of AT; programs to reuse AT; and AT policies and procedures.

(i) Prior to developing any new product, submit a proposal for the product to the Technical Assistance Coordinating Center (TACC) for approval from the OSEP Project Officer. The development of new products should be consistent with the product definition and guidelines posted on the TACC Web site (*www.tadnet.org*).

(j) Maintain ongoing communication with the OSEP Project Officer and other projects funded under this priority through monthly phone conversations and email communication.

**Note:** The MDCC will provide support for monthly teleconferences with all projects to discuss cross-project activities.

*References:*


Campbell, P.H., Milbourne, S.A., Dugan, L., & Wilcox, M.J. (2006). A Review of Evidence on Practices for Teaching Young Children to Use Assistive Technology. *Topics in Early Childhood Special Education, 26*(1), 3–14.

Campbell, P.H., Milbourne, S.A., & Wilcox, M.J. (2008). Adaptation Interventions to Promote Participation in Natural Settings. *Infants & Young Children, 21*(2), 94–106.

Carlson, D., & Ehrich, N. (2006). Sources of Payment for Assistive Technology: Findings from a National Survey of Persons with Disabilities. *Assistive Technology, 18,* 77–86.

Data Accountability Center. (2004). Individuals with Disabilities Education Act (IDEA) Data: Data Tables for OSEP State Reported Data. Part C Early Intervention Services. Available from: *www.ideadata.org/arc_toc7.asp#partcEIS.*

Dugan, L., Campbell, P., & Wilcox, M. (2006). Making Decisions about Assistive Technology with Infants and Toddlers. *Topics in Early Childhood Special Education, 26*(1), 25–32.

Dunst, C.J. & Trivette, C.M. (2011). Evidence-Based Strategies for Training Adults to Use Assistive Technology and Adaptations (Research brief, Volume 5, No. 1). Tots n Tech Research Institute. Available from: *http://tnt.asu.edu.*

Hebbeler, K. & Zercher, C. (2003, October 13). NEILS: Service and Provider Characteristics and Expenditures. Paper presented at the 19th Annual Conference of the Division of Early Childhood (DEC), Washington, DC.

Milbourne, S., & Campbell, P. (2008). Report of Assistive Technology Training for Providers and Families of Children in Early Intervention (Research Brief, Volume 2, Number 1). Tots n Tech Research Institute. Available from: *http://tnt.asu.edu.*

Mistrett, S. (2004). Assistive Technology Helps Young Children with Disabilities Participate in Daily Activities. *Technology in Action, 1,* (4), 1–8.

The Tots n Tech Institute. (2009). Funding Assistive Technology (Resource Brief 3). Available from: *http://tnt.asu.edu.*

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The Tots n Tech Institute. (2011). Assistive Technology Reuse (Resource Brief 7). Available from: *http://tnt.asu.edu.*

Wilcox, M. J., Dugan, L.M., Campbell, P.H., & Guimond, A. (2006). Recommended Practices and Parent Perspectives Regarding AT Use in Early Intervention. *Journal of Special Education Technology, 21,* 7–16.

Wilcox, M.J., Guimond, A., Campbell, P., Moore, H.W. (2006). Provider Perspectives on the Use of Assistive technology for Infants and Toddlers with Disabilities. *Topics in Early Childhood Special Education, 26*(1), 33–49.


*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

*Program Authority:* 20 U.S.C. 1474 and 1481.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

## II. Award Information

*Type of Award:* Cooperative agreement.

*Estimated Available Funds:* $1,200,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2013 from the list of unfunded applicants from this competition.

*Estimated Range of Awards:* $375,000 to $400,000.

*Estimated Average Size of Award:* $388,000.

*Maximum Award:* We will reject any application that proposes a budget exceeding $400,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 3.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

## III. Eligibility Information

*Eligible Applicants:* State educational agencies (SEAs); LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other: General Requirements:*

(a) The projects funded under this competition must make positive efforts to employ, and advance in employment, qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

## IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.327L.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

*Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

*Applications Available:* June 4, 2012.

*Deadline for Transmittal of Applications:* July 19, 2012.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV.7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: September 17, 2012.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We are participating as a partner in the Governmentwide Grants.gov Apply site. The Models Promoting Young Children's Use of Assistive Technology competition, CFDA number 84.327L, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not

email an electronic copy of a grant application to us.

You may access the electronic grant application for the Models Promoting Young Children's Use of Assistive Technology competition at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.327, not 84.327L).

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- If you submit your application electronically, you must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327L), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327L), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The Standing Panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers, by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technology and Media Services for Individuals with Disabilities program. These measures are included in the application package and focus on the extent to which projects are of high quality, are relevant to improving outcomes of children with disabilities, and contribute to improving outcomes for children with disabilities. We will collect data on these measures from the project funded under this competition. The grantee will be required to report information on its project's performance in its final performance report to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 4057, Potomac Center Plaza (PCP), Washington, DC 20202–2600. Telephone: (202) 245–6595.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

## VIII. Other Information

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 29, 2012.

**Alexa Posny,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2012–13500 Filed 6–1–12; 8:45 am]

**BILLING CODE 4000–01–P**

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## DEPARTMENT OF EDUCATION

**[Docket ID: ED–2012–OVAE–0014]**

## Request for Information on Strategies for Improving Outcomes for Disconnected Youth

**AGENCY:** Office of Vocational and Adult Education, Department of Education.

**ACTION:** Request for information.

**SUMMARY:** The President's FY 2013 Budget (FY 2013 budget) included a request for authority to implement ''Performance Partnership Pilots'' that would improve outcomes for disconnected youth. In order to inform the Administration's development of that initiative, this request for information (RFI) seeks recommendations on effective approaches for improving outcomes for disconnected youth by working across Federal, State, and local community programs and systems that provide services to disconnected youth. The input we receive will inform the deliberations of the Federal Interagency Forum on Disconnected Youth about the best use of the authority requested in the FY 2013 budget for the Performance Partnership Pilots and on other actions the Administration might take to improve outcomes for disconnected youth. In addition, responses may also be used to identify opportunities for flexibility within existing authorities.

**DATES:** Responses must be received by July 5, 2012.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via U.S. mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. To ensure that we do not receive duplicate copies, please submit your comments only one time. In addition, please include the Docket ID and the term ''Performance Partnership Response'' at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How to Use This Site.''
- *U.S. Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments, address them to Annie Blackledge, Attention: Improving Outcomes for Disconnected Youth RFI, U.S. Department of Education, 400 Maryland Avenue SW., room 11089, Potomac Center Plaza, Washington, DC 20202–7241.
- *Privacy Note:* The Department's policy for comments received from members of the public (including comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

**FOR FURTHER INFORMATION CONTACT:** Meg Massey by email: *mmassey@omb.eop.gov*; or Annie Blackledge by email: *Annie.Blackledge@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Purpose

This request for information offers States, tribal governments, local entities, community-based and other non-profit organizations, private-sector partners, philanthropic organizations, faith-based organizations, researchers, and other interested individuals and entities the opportunity to provide recommendations on effective approaches for improving outcomes for disconnected youth by working across programs and systems that provide relevant services to them. For the purposes of this RFI, ''to improve outcomes for disconnected youth'' means to increase the rate at which young people ages 14 to 24 who are homeless, in foster care, involved in the juvenile justice system, or are neither employed nor enrolled in an educational institution achieve success in meeting educational, employment, and other key lifelong development goals.

The public input provided in response to this notice will inform the deliberations of the Interagency Forum on Disconnected Youth about determining the best use of the authority requested in the President's FY 2013 budget for the Performance Partnership Pilots.[1] If legislation provides this authority, these pilots would create innovative and comprehensive reengagement strategies that encourage additional academic and non-academic supports and support multiple pathways to prepare disconnected youth for college and career success. Responses to the RFI will also inform how the Department of Education (ED), the Department of Health and Human Services (HHS), and the Department of Labor (DOL) could deploy other resources for disconnected youth that have been requested in the FY 2013 budget. In addition, the Department of Justice (DOJ) and the Department of Housing and Urban Development (HUD) are interested in how their programs

[1] *The Budget for Fiscal Year 2013*—Section 737 of the General Provisions Government-wide, Performance Partnerships Pilots (see *www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/ggp.pdf*).

serving disconnected youth could contribute to Performance Partnership Pilots and other efforts to improve outcomes for this population.

**Background**

Several reports indicate that there are millions of disconnected young people in the U.S. who are out of school, have not attained a high school diploma, and are out of work.[2] The consequences of being disconnected are serious for both the individual and society, as these young people not only fail to meet their personal potential, but also cost the Nation billions of dollars every year in lost earnings, crime/incarceration, and expenditures on social and other services.[3]

Youth who are living in poverty, low-income households, or foster care, or who are homeless or transitioning back to the community from incarceration, are disproportionately at risk of poor educational achievement, unemployment, or underemployment. Disconnected youth are not a homogenous group. Disconnected youth struggle with a range of barriers to positive education, employment, and other life-goal outcomes including, but not limited to single parenthood, lack of adequate housing, lack of secondary education, lack of job-skills training, physical or mental health challenges, substance abuse, and learning disabilities. Addressing the needs of these disconnected youth is critical to America's economic future.

The Administration's discussions with States and local entities following the February 28, 2011, release of the presidential memorandum on administrative flexibility, lower costs, and better results for State, local, and tribal governments[4] suggests these young people might not be receiving the full benefits of the Federal, State, and local community programs, services, and resources available. The Administration's discussions with States and local entities focused on five overarching challenges to the systems serving this population:

- Limited evidence about effective models and strategies that support positive outcomes;
- Lack of knowledge about the evidence that exists;
- A relative lack of attention to this population at the Federal, State, and local levels;
- Lack of coordination in addressing this population's needs; and,
- The need for more comprehensive approaches that meet the multi-faceted needs of this population.

The President's FY 2013 budget proposes a Government-wide authority to establish up to 13 Performance Partnership Pilots to improve outcomes for disconnected youth involving up to $130 million in existing discretionary Federal resources.[5] The proposed authority would enable States and local entities to seek Federal approval to blend funds from multiple funding sources and obtain waivers, such as for program design, performance, and other requirements, that enable more effective uses of funding from programs serving disconnected youth. This proposal responds to requests from States and local entities for greater flexibility in managing resources provided by multiple Federal programs.[6] The pilot would allow flexibility if communities can demonstrate how they will achieve better results for the high-need disconnected youth population. A State or local community could not propose to achieve its goals by reducing services to youth, particularly those who have multiple barriers to employment and education and are consequently the most difficult to serve.

The FY 2013 budget does not request dedicated funding for Performance Partnership Pilots as they are designed to facilitate flexibility in use of existing program funds. However, outside of the Performance Partnerships authority, the Budget proposes program authority for new approaches to streamlining and improving delivery systems to provide better services to assist disconnected youth, including $5 million at ED, $5 million at HHS, and a $10 million set-aside within the DOL's Workforce Innovation Fund. These funds, if approved by Congress, could potentially be used to enhance and support the State and local community activities undertaken in a Performance Partnership Pilot, such as activities that provide better information and tools to enable communities to direct their resources to strategies that work and to measure and evaluate successful practices.

To further develop ideas on how the Performance Partnerships authority and the FY 2013 funding request for disconnected youth could support innovative approaches that improve service delivery, the Office of Management and Budget (OMB), ED, HHS, DOL, DOJ, and HUD have established an Interagency Forum on Disconnected Youth to:

- Align evidence standards across Federal agencies and programs;
- Disseminate to policymakers and practitioners tools for measuring and evaluating outcomes for disconnected youth served by multiple systems;
- Share best practices for effectively coordinating multiple systems and programs serving disconnected youth at the Federal, State, and local levels;
- Solicit ideas from a broad array of stakeholders on strategies for improving outcomes for disconnected youth, including on how to facilitate comprehensive, multi-systems approaches and on how to use existing resources more effectively;
- Assess the potential for the development of public-private partnerships through which foundations and other private-sector partners could support promising pilot projects and focus attention on the disconnected youth population; and
- Work with States and local entities to align State and Federal rules and regulations in order to support implementation of the pilot projects and better outcomes for disconnected youth.

The work of the Interagency Forum on Disconnected Youth will build on existing work done by the White House Council on Community Solutions[7] during 2011 and 2012 in order to identify effective collaborations and support educators and employers in reaching out to disconnected youth. It will also build on the work of the longstanding Interagency Working Group on Youth Programs[8] and various related initiatives.

**Request for Information**

Through this RFI, the Interagency Forum on Disconnected Youth and participating Federal agencies are soliciting ideas and information from a broad array of stakeholders on strategies for improving outcomes for disconnected youth, including on how to facilitate comprehensive, multi-system approaches and on how to use existing resources in more coordinated and comprehensive ways. Responses to

[2] Disconnected Youth: A Look at 16- to 24-Year Olds Who Are Not Working or In School, Congressional Research Service, Adrienne L. Fernandes, Thomas Gabe April 22, 2009 *www.fas.org/sgp/crs/misc/R40535.pdf.*

[3] *www.serve.gov/new-images/council/pdf/econ_value_opportunity_youth.pdf.*

[4] *www.whitehouse.gov/the-press-office/2011/02/28/presidential-memorandum-administrative-flexibility.*

[5] See section 737 (page 14) of the Government-wide General Provisions in the President's FY 2013 budget appendix: *www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/ggp.pdf.* The Performance Partnerships provision also includes authority for pilots in neighborhood revitalization, which is not the subject of this RFI.

[6] These Performance Partnership Pilots would involve discretionary Federal resources only—not mandatory funding for entitlement programs, such as Medicaid.

[7] *www.serve.gov/council_home.asp.*

[8] *http://findyouthinfo.gov/.*

this RFI will inform the work of the Interagency Forum on Disconnected Youth on the design, logistics, and feasibility of Performance Partnership Pilots.

This RFI is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of the Interagency Forum on Disconnected Youth or participating Federal agencies.

We ask respondents to address the following questions, where possible, in the context of the discussion in this document. You do not need to address every question and should focus on those where you have relevant expertise. You may also address the questions in the context of a detailed pilot proposal outlining how a State, local, or tribal government could use the Performance Partnership authority to implement a comprehensive strategy for achieving better outcomes for disconnected youth.

To the extent possible, please clearly indicate which question(s) you address in your response.

Key Questions:

1. What programs and strategies at the State or local level have shown great promise or have been proven to improve educational, employment, or other key outcomes for disconnected youth?

2. How can we better align resources and administrative, regulatory, and statutory requirements to allow for more effective use of existing resources serving disconnected youth and stronger partnerships across levels of government and the private and non-profit sectors?

3. What key outcomes or indicators for individuals and communities are most important for measuring both short- and long-term progress for disconnected youth?

Detailed Questions:

*I. Effective or Promising Practices and Strategies*

1. What Federal, State, and local programs or community collaborative efforts have improved outcomes for disconnected youth? What is the objective evidence of their success (e.g., evidence from rigorous evaluations using, for instance, random assignment and regression discontinuity design)?

2. What program designs have great promise of improving educational, employment, or other key outcomes for disconnected youth? What is the best evidence to support these program designs (e.g., correlational or longitudinal outcomes analyses)?

3. What discrete interventions, strategies, or practices would need to be included in pilot designs or innovative programs to increase the likelihood of their success, particularly untested designs?

4. What are the best ways to involve youth in planning and implementation in order to help ensure that projects will be effective in meeting their needs?

*II. Public and Private Partnerships*

1. Which State, local, non-profit, and business partners have been involved in the successful initiative(s) addressing the needs of disconnected youth that you may have described in response to one or more of the questions in this RFI? Which partners should be involved in the future?

2. What role did or what role could philanthropic organizations play in supporting these types of initiatives you may have described in response to one or more of the questions in this RFI?

3. How were the partnerships involved in those initiatives structured (e.g., governance models, provision of services, shared funding, collaborative professional development)?

4. Which Federal programs should be involved in performance partnership pilots for disconnected youth?

5. What has been your experience with other Federal initiatives that address issues related to disconnected youth by facilitating comprehensive, multi-system approaches and using existing resources in more coordinated and comprehensive ways, such as Promise Neighborhoods and Choice Neighborhoods within the Neighborhood Revitalization Initiative? [9]

6. Do you see an opportunity to use the Pay for Success[10] model which is currently being pursued under existing authority by the Departments of Labor and Justice, but which could potentially be expanded to other areas such as programs serving disconnected youth?

*III. Outcomes, Data, and Evaluation Design*

1. What are the key outcomes that pilots should measure, and what indicators should be used to track intermediate and long-term success for youth?

2. What existing data collection mechanisms can be harnessed to track indicators, outcomes, and participant characteristics?

3. What are examples of frameworks and protocols for sharing data efficiently across programs while meeting privacy and confidentiality requirements? What should be the specifications for additional frameworks or protocols for effective sharing of information?

4. What are the best examples of communities and programs using data to track progress, inform course corrections, and evaluate program effectiveness?

5. What evaluation designs should be used to demonstrate improved outcomes or improved cost-effectiveness of Performance Partnership Pilots?

6. How do the Federal Government, States, and local entities ensure that the flexibility provided through the pilots does not have any adverse effect on the most vulnerable populations?

*IV. Barriers*

1. What are the legislative, regulatory, or other barriers that impede a community's ability to implement the most cost-effective strategies to assist disconnected youth?

2. Are the barriers created at the Federal, State, or local level?

3. Could the barriers be overcome through administrative action?

4. Would overcoming the barriers require changes in Federal or State laws?

*V. Alternative Pilot Designs*

1. Which of the following design models would best enable effective pilots at the community level?

- Formula Grant Model: Communities would carve out a portion of funds from multiple formula grants serving youth and use the funds for a coherent, focused strategy to improve outcomes for disconnected youth. The community, the State, and Federal agencies would negotiate an agreement that would include a limited set of key outcomes and performance measures, a streamlined set of reporting requirements, and a strong evaluation strategy.
- Competitive Grant Model: The Federal Government would issue a joint solicitation for grant applications that would pool funds from multiple competitive programs for outcome-focused projects.
- Hybrid Model: The Federal Government would use a joint solicitation for grant applications to fund competitive grants for pilots. Competitive preference would be given to applicants proposing to achieve better results by blending their formula funds to support a more effective service strategy.

2. What is the recommended duration of the performance partnership pilot projects for the model or models you selected as effective?

[9] *www.whitehouse.gov/administration/eop/oua/initiatives/neighborhood-revitalization.*

[10] *www.whitehouse.gov/blog/2012/01/24/pay-success-new-results-oriented-federal-commitment-underserved-americans/.*

**Guidance for Submitting Documents**

We ask that each respondent include the name and address of his or her institution or affiliation, and the name, title, mailing and email addresses, and telephone number of a contact person for his or her institution or affiliation, if any.

**Rights to Materials Submitted**

By submitting material (e.g., descriptions of strategies for improving outcomes for disconnected youth) in response to this RFI, you agree to grant the Administration a worldwide, royalty-free, perpetual, irrevocable, non-exclusive license to use the material, and to post it. Further, you agree that you own, have a valid license, or are otherwise authorized to provide the material to the Administration.

The Administration will not provide any compensation for material submitted in response to this RFI.

**Request for Metadata Tags**

To make the best use of the information submitted in response to this RFI and to make it easier for interested parties to search, the Administration will include specific words or phrases—also known as ''keywords'' or metadata ''tags''—with the material submitted. Therefore, you are strongly encouraged to use keywords or tags to identify components of the strategies described in your responses. The keywords or tags should be linked to, and accurately reflect substantial components of, the strategies, practices, programs, or other activities described in your submission. To simplify searches of the responses, Appendix A of this RFI provides a list of standard keywords and tags. You are encouraged to select from among these standard keywords and tags to the greatest extent possible. In the event that none of the words or phrases in Appendix A is sufficiently precise for the strategy that is the subject of your response, you may substitute other keywords or tags. Please do not provide more than eight keywords or tags for each strategy.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Authority:** 20 U.S.C. 3401 and 3402, and 20 U.S.C. 9253.

Dated: May 30, 2012.

**Brenda Dann-Messier,**

*Assistant Secretary for Vocational and Adult Education.*

**Appendix A: Standard Keywords and Tags**

*Population Descriptors*

- Disconnected Youth
- Youth
- Disadvantaged Youth
- Out-of-School Youth
- Workforce Investment Act (WIA) Youth
- Youth in Adult Education
- Young Adults
- Vulnerable
- Homeless Youth
- Foster Youth
- Runaway Youth
- Human Trafficking Victims
- Domestic Minor Sex Trafficking Victims
- Dropouts
- At-Risk Youth
- Gang-Involved Youth
- Youth in Single-Parent Households

*Service Descriptors*

- Youth Development
- Youth Workforce Development
- Youth and Basic Skills
- Basic Skills
- Adult Education
- Workforce Investment Act Youth Services
- Youth Service
- Alternative Settings
- Alternative High School
- Adult High School
- Youth Career Pathways
- Career Pathways
- Trauma Behavioral Health
- Social and Emotional Well-Being

*Strategy and Practice Descriptors*

- Partnerships
- Outreach
- Alignment
- Transition
- Articulation
- Dual Enrollment
- Wrap-Around
- Support
- Holistic
- Integrated
- Team Teaching
- Collaboration
- Professional Development
- Shared
- Performance-Based Funding
- Pay-for-Success Funding
- Innovation

*Evidence Descriptors*

- Cohort
- Random Assignment
- Longitudinal
- Evaluation
- Action
- Research
- Impact
- Documentation
- Performance
- Outcomes
- Goal Achievement
- Research-Based

[FR Doc. 2012–13473 Filed 6–1–12; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

**[FE Docket No. 12–05–LNG]**

## Gulf Coast LNG Export, LLC; Application for Long-Term Authorization To Export Domestically Produced Liquefied Natural Gas for a 25-Year Period

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on January 10, 2012, by Gulf Coast LNG Export, LLC (Gulf Coast), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in an amount up to the equivalent of 1,022 billion cubic feet (Bcf) of natural gas per year, which averages to 2.8 Bcf per day (Bcf/d), up to a total of 25.55 trillion cubic feet (Tcf), over a 25-year period, commencing on the earlier of the date of first export or eight years from the date the requested authorization is granted. Gulf Coast proposes to export LNG from a proposed natural gas liquefaction facility and LNG terminal to be located at the Port of Brownsville in Brownsville, Texas, which Gulf Coast plans to develop, to any country which has or in the future develops the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. Gulf Coast seeks to export this LNG on its own behalf and also as agent for third parties. The Application was filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., eastern time, August 3, 2012.

**ADDRESSES:**

*Electronic Filing on the Federal eRulemaking Portal under FE Docket No. 12–05–LNG: http://www.regulations.gov.*

*Electronic Filing by email: fergas@hq.doe.gov.*

**Regular Mail**

U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

**Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)**

U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Larine Moore or Lisa Tracy, U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–4523.

Edward Myers, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6B–256, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–3397.

**SUPPLEMENTARY INFORMATION:**

## Background

Gulf Coast is a Delaware limited liability company with its principal place of business in Houston, Texas. Gulf Coast is owned by Michael Smith, the founder and current Chairman and CEO of Freeport LNG Development, L.P. (97 percent), the Kaily Morgan Smith Irrevocable Trust (1.5 percent), and the Tara Marielle Smith Irrevocable Trust (1.5 percent).

Gulf Coast plans to develop, own and operate a natural gas liquefaction facility and LNG export terminal at the Port of Brownsville, in Brownsville, Texas (Brownsville Terminal). Gulf Coast states that the Brownsville Terminal will include four trains capable of liquefying up to 2.8 Bcf/d of natural gas, a marine berth, full containment LNG storage tanks, a pipeline connection to natural gas transportation lines, and associated utilities.

## Current Application

In the instant Application, Gulf Coast seeks long-term, multi-contract authorization to export domestically produced LNG up to the equivalent of 1,022 Bcf of natural gas per year (2.8 Bcf/d), up to a total of 25.55 Tcf, for a period of twenty-five years beginning on the earlier of the date of first export or eight years from the date the authorization is granted by DOE/FE. Gulf Coast seeks authorization to export domestically produced LNG to countries from the United States to any country which has or in the future develops the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. In the alternative, Gulf Coast requests authorization for that portion of Gulf Coast's requested authorization quantity or term that DOE/FE determines to be in the public interest.

When submitted in January 2012, the Application did not contain evidence that Gulf Coast had established a business relationship with the Port of Brownsville where the proposed liquefaction facility and LNG export terminal are to be constructed. Absent some credible evidence that an applicant for an LNG export authorization has taken meaningful steps toward establishing the sorts of business relationships essential for performing the services for which authorization is sought from this agency (for example, securing a means of obtaining LNG for export, contracting for capacity at an existing LNG terminal, or initiating the process of securing property to construct such a terminal), DOE/FE will generally consider such an application deficient and, if the deficiency is not corrected in a reasonable time, the application may be dismissed without prejudice to refilling at a later time. *See,* 10 CFR 590.203.

On March 27, 2012, Gulf Coast sent DOE/FE a copy of an option agreement between Gulf Coast and the Brownsville Navigation District of Cameron County, Texas, to demonstrate its commercial relationship with the owner of the property on which the proposed facility would be built. Gulf Coast requested the agreement be afforded confidential treatment and not posted to the public docket. Subsequently, Gulf Coast agreed to allow a redacted version of the option agreement to be placed in the public docket of the proceeding. On May 16, 2012, Gulf Coast submitted the redacted agreement, and DOE/FE deemed the application complete at that time.

Gulf Coast states that rather than entering into long-term natural gas supply or LNG export contracts, it contemplates that its business model will be based primarily on Liquefaction Tolling Agreements (LTAs), under which individual customers who hold title to natural gas will have the right to deliver that gas to Gulf Coast and receive LNG. Gulf Coast states that in the current natural gas market, LTAs fulfill the role previously performed by long-term supply contracts, in that they provide stable commercial arrangements between companies involved in natural gas services.

Gulf Coast requests long-term multi-contract authorization to engage in exports of LNG on its own behalf or as agent for others. Gulf Coast contemplates that the title holder at the point of export [1] may be Gulf Coast or one of Gulf Coast's LTA customers, or another party that has purchased LNG from an LTA customer pursuant to a long-term contract. Gulf Coast requests authorization to register each LNG title holder for whom Gulf Coast seeks to export as agent, and proposes that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included by DOE/FE in Gulf Coast's export authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. In addition to its registration of any LNG title holder for whom Gulf Coast seeks to export as agent, Gulf Coast states that it will file under seal with DOE/FE any relevant long-term commercial agreements between Gulf Coast and such LNG title holder, including LTAs, once they have been executed.[2]

Gulf Coast states that the natural gas supply underlying the proposed exports will come from the interconnected and highly liquid domestic market for natural gas. Gulf Coast states that given the size of the traditional natural gas market in Texas, and the exponential growth of unconventional resources in the region, a diverse and reliable source of natural gas will be available to support the requested authorization.

[1] LNG exports occur when the LNG is delivered to the flange of the LNG export vessel. *See The Dow Chemical Company,* FE Docket No. 10–57–LNG, Order No. 2859 at p. 7 (October 5, 2010).

[2] Gulf Coast states that the practice of filing contracts after the DOE/FE has granted export authorization is well established. *See Yukon Pacific Corporation,* ERA Docket No. 87–68–LNG, Order No. 350 (November 16, 1989); *Distrigas Corporation,* FE Docket No. 95–100–LNG, Order No. 1115, at p. 3 (November 7, 1995); See also Freeport LNG Expansion and FLNG Liquefaction, LLC, FE Docket No. 10–160–LNG, Order No. 2913 at 9–10 (February 10, 2011).

Gulf Coast provides further discussion of the gas supply markets in the Application.

**Public Interest Considerations**

In the instant Application, Gulf Coast requests authorization to export to any country which has or in the future develops the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. Gulf Coast states that this may include countries with which the United States has an FTA requiring national treatment for trade in natural gas or LNG, as well as non-FTA countries. Gulf Coast acknowledges that in the review of its Application, DOE/FE will be guided by the individual statutory provisions that apply separately to the export of LNG to FTA and non-FTA countries. In either case, Gulf Coast contends that the requested authorization would not be inconsistent with the public interest and should be granted by DOE/FE.

Gulf Coast asserts that applications submitted to DOE/FE that seek to export LNG to FTA countries should be reviewed pursuant to the public interest standard in Section 3(c) of the Natural Gas Act (NGA).[3] Gulf Coast maintains that these exports are deemed to be in the public interest and must be granted without modification or delay.

With regard to exports of LNG to non-FTA countries, Gulf Coast states that DOE/FE has consistently ruled that section 3(a) of the NGA creates a rebuttable presumption that proposed exports of natural gas are in the public interest. Gulf Coast asserts that unless opponents of an export license make an affirmative showing based on evidence in the record that the export would be inconsistent with the public interest, DOE/FE must grant the export application.[4]

Gulf Coast asserts that in evaluating whether the proposed exportation is within the public interest, DOE/FE applies the principles established by the Policy Guidelines,[5] which promote free and open trade by minimizing federal control and involvement in energy markets, and DOE Delegation Order No. 0204–111, which requires ''consideration of the domestic need for the gas to be exported.'' Gulf Coast cites DOE/FE Order No. 2961,[6] in which DOE/FE stated that its public interest review of applications to export natural gas to countries with which the United States does not have an FTA ''has continued to focus on the domestic need for the natural gas proposed to be exported; whether the proposed exports pose a threat to the security of domestic natural gas supplies; and any other issue determined to be appropriate * * *''.

Gulf Coast states that as a result of technological advances, huge reserves of domestic shale gas that were previously infeasible or uneconomic to develop are now being profitably produced in many regions of the United States. Gulf Coast asserts that the United States is now estimated to have more natural gas resources than it can use in a century.[7] Gulf Coast also states that large volumes of domestic shale gas reserves and continued low production costs will enable the United States to export LNG while also meeting domestic demand for natural gas for decades to come.

Gulf Coast asserts that as U.S. natural gas reserves and production have risen, U.S. natural gas prices have fallen to the point where they are among the lowest in the developed world. Gulf Coast states that LNG supply contracts in Asian markets are pegged to crude oil prices. Gulf Coast asserts that while Europe receives pipeline gas from various sources, the long supply chains and relative inflexibility of markets have made diversification of supply a high priority. Gulf Coast states that domestic natural gas prices are projected to remain low relative to European and Asian markets well into the future, thereby making exports of LNG by vessel a viable long-term opportunity for the United States.

Gulf Coast states the project is positioned to provide the Gulf Coast region and the United States with significant economic benefits by increasing domestic natural gas production. Gulf Coast states that these benefits will be obtained with only a minimal effect on domestic natural gas prices. Gulf Coast states that at current and forecasted rates of demand, the United States' natural gas reserves will meet demand for 100 years. Gulf Coast states that the project allows the United States to benefit now from the natural gas resources that may not otherwise be produced for many decades, if ever. Gulf Coast provides further discussion on why the proposed export authorization is in the public interest.

First, Gulf Coast contends that the project will cause direct and indirect job creation through construction (3,000 onsite jobs over five to six years) and operation (more than 250 permanent jobs) of the planned project, and indirect jobs as a result of increased drilling for and production of natural gas (34,000 to 42,000 jobs).[8]

Second, Gulf Coast maintains the project would create significant economic stimulus, with the total economic benefits to the American economy estimated to be between $7.2 and $10.4 billion per year from 2018 to 2043, or $90 to $130 billion over the requested 25-year export term.[9]

Third, Gulf Coast contends that there will be a material improvement in the U.S. balance of trade. Gulf Coast states that assuming an average value of $7 per million Btu, exporting approximately 2.8 Bcf/d of LNG through the project will improve the U.S. balance of payments by approximately $7.3 billion per year, or $183 billion over the requested 25-year export term.

Fourth, Gulf Coast states that the project will have significant environmental benefits by reducing global greenhouse gas emissions if the natural gas exported is used as a substitute for coal and fuel oil.

Fifth, Gulf Coast states that the project supports American energy security. Gulf Coast maintains that the United States has developed a massive natural gas resource base that is sufficient to supply domestic demand for a century, even with significant exports of LNG. Gulf Coast contends that the project will not adversely affect U.S. energy security. Gulf Coast references a report by the Massachusetts Institute of Technology's Energy Initiative, which concludes that ''[t]he U.S. should sustain North American energy market integration and support development of a global 'liquid' natural gas market with diversity of supply. A corollary is that the U.S. should not erect barriers to gas imports or exports.'' [10]

[3] 15 U.S.C. 717b(c).

[4] DOE/FE Order No. 1473, note 42 at p. 13, *citing Panhandle Producers and Royalty Owners Association* v. *ERA,* 822 F.2d 1105, 1111 (D.C. Cir. 1987).

[5] *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas,* 49 FR 6684 (Feb. 22, 1984).

[6] *Sabine Pass Liquefaction LLC,* DOE/FE Docket No. 10–110 LNG (DOE/FE Order No. 2961), May 20, 2011.

[7] Gulf Coast states that total U.S. recoverable natural gas reserves equal about 2,543 trillion cubic feet (Tcf), which Gulf Coast states is more than 105 times the total domestic consumption of 24.1 Tcf in 2010. U.S. Energy Information Administration, *Annual Energy Outlook 2011,* at 79 (April 26, 2011).

[8] Gulf Coast cites to the following: Baumann, Robert H., D.E. Dismukes, D.V. Mesyanzhinov, and A.G. Pulsipher, *Analysis of the Economic Impact Associated with Oil and Gas Activities on State Leases,* Louisiana State University Center for Energy Studies (2002); Snead, Mark C., *The Economic Impact of Oil and Gas Production and Drilling on the Oklahoma Economy,* Oklahoma State University (2002); Considine, Timothy J., *The Economic Impacts of the Marcellus Shale: Implications for New York, Pennsylvania and West Virginia,* A Report to the American Petroleum Institute (2010).

[9] *Id.*

[10] MIT Energy Initiative, *MIT Study on the Future of Natural Gas,* at 157 (2011).

Further details can be found in the Application, which has been posted at *http://www.fe.doe.gov/programs/gasregulation/index.html*.

Based on the reasoning provided in the Application, Gulf Coast requests that DOE/FE determine that Gulf Coast's request for long-term, multi-contract authorization to export LNG is not inconsistent with the public interest.

**Environmental Impact**

Gulf Coast states that its proposed LNG exports will require the siting, construction and operation of the proposed Brownsville Terminal, subject to environmental review and authorization by the FERC. Gulf Coast states that it will initiate the FERC authorization process within 180 days of DOE/FE's order approving this Application. Accordingly, Gulf Coast requests that DOE/FE issue a conditional order authorizing the export of domestically produced LNG from the planned Brownsville Terminal conditioned on completion of the environmental review and subsequent authorization by the FERC.

**DOE/FE Evaluation**

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00L (April 29, 2011) and DOE Redelegation Order No. 00–002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or appropriate, these issues will include the impact of LNG exports associated with this Application, and the cumulative impact of any other application(s) previously approved, on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and any other issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should comment in their responses on these issues, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Due to the complexity of the issues raised by the Applicants, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

**Public Comment Procedures**

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Submitting comments in electronic form on the Federal eRulemaking Portal at *http://www.regulations.gov,* by following the on-line instructions and submitting such comments under FE Docket No. 12–05–LNG. DOE/FE suggests that electronic filers carefully review information provided in their submissions and include only information that is intended to be publicly disclosed; (2) emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 12–05–LNG in the title line; (3) mailing an original and three paper copies of the filing to the Office Natural Gas Regulatory Activities at the address listed in **ADDRESSES**; or (4) hand delivering an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in **ADDRESSES**.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application filed by Gulf Coast is available for inspection and copying in the Office of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.* In addition, any electronic comments filed will also be available at: *http://www.regulations.gov*.

Issued in Washington, DC, on May 29, 2012.

**John A. Anderson,**

*Manager, Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.*

[FR Doc. 2012–13430 Filed 6–1–12; 8:45 am]

BILLING CODE 6450–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2012–0261; FRL–9350–5]**

## Certain New Chemicals; Receipt and Status Information

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

**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on

the TSCA Chemical Substances Inventory (TSCA Inventory)) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document, which covers the period from April 9, 2012 to April 30, 2012, and provides the required notice and status report, consists of the PMNs pending or expired, and the NOC to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. Two PMN's, from a previous date which were inadvertently omitted, are included in this notice.

**DATES:** Comments identified by the specific PMN number or TME number, must be received on or before July 5, 2012.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0192, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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

*Docket:* All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Bernice Mudd, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; fax number: (202) 564–8955; email address: *mudd.bernice@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA–Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### *B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at

your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

## II. Why is EPA taking this action?

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm*. Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/opt/newchems*.

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals. This status report, which covers the period from April 9, 2012 to April 30, 2012, consists of the PMNs pending or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

Two PMN's, P–12–214 and P–12–215 from a previous date, which were inadvertently omitted, are included in this notice.

## III. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—25 PMNS RECEIVED FROM 04/09/12 TO 04/30/12

| Case No. | Received date | Projected notice end date | Manufacturer/importer | Use | Chemical |
|---|---|---|---|---|---|
| P–12–0214 | 03/01/2012 | 05/01/2012 | CBI | Laundry and auto dish wash additive. | Carbohydrate polymers with acrylic and maleic anhydride, sodium peroxide and peroxy disulfuric acid (1(HO)s(O)2]2O2) sodium salt (1:2) initiate. |
| P12–0215 | 03/01/2012 | 05/01/2012 | CBI | Laundry and auto dish wash additive. | Carbohydrate, polymers with acrylic acid and sodium 2-methyl-2-[(1oxo-2-propen-1-yl) amino]-1-propane sulfoate (1:1), sodium salt hydrogen peroxide- and peroxydisulfuric acid ([HO_s(O)2 [2O2_sodium salt (1:2)-initiated. |
| P–12–0313 | 04/10/2012 | 07/08/2012 | CBI | (G) Resin for automotive coatings. | (G) Thermoset acrylic polymer. |
| P–12–0314 | 04/10/2012 | 07/08/2012 | CBI | (G) Resin for automotive coatings. | (G) Thermoset acrylic polymer. |
| P–12–0315 | 04/10/2012 | 07/08/2012 | CBI | (G) Resin for automotive coatings. | (G) Thermoset acrylic polymer. |
| P–12–0316 | 04/11/2012 | 07/09/2012 | CBI | (S) Binder resin for aerospace sealants. | (G) Amine-capped polythioether. |
| P–12–0317 | 04/12/2012 | 07/10/2012 | BASF Corporation | (G) Resin binder for printing inks. | (G) Amino-hydroxy functional polyurethane resin. |
| P–12–0318 | 04/12/2012 | 07/10/2012 | BASF Corporation | (G) Binder for printing ink applications. | (G) Amino functional cyclo aliphatic polyurethane resin. |
| P–12–0319 | 04/12/2012 | 07/10/2012 | Henkel Corporation | (G) Coating material | (G) Polyurethane. |
| P–12–0320 | 04/13/2012 | 07/11/2012 | CBI | (G) Foam stabilizer | (G) Partially fluorinated acrylic copolymer. |
| P–12–0321 | 04/12/2012 | 07/10/2012 | 3M Company—Group | (G) Monomer | (G) Aliphatic acrylate mixture. |
| P–12–0322 | 04/17/2012 | 07/15/2012 | CBI | (G) Paint and/or inks | (G) Alkenoic acid, polymer with alkyl acrylate, peroxide-initiated, compound with amine salt. |
| P–12–0323 | 04/18/2012 | 07/16/2012 | CBI | (G) Resin for waterborne inks. | (G) Acrylic waterborne emulsion. |
| P–12–0324 | 04/18/2012 | 07/16/2012 | CBI | (G) Emulsifier for use in lubricants. | (G) Polyethylene glycol, fatty acid, polysuccinate polyester. |
| P–12–0325 | 04/20/2012 | 07/18/2012 | CBI | (G) Processing aid for rubber. | (G) Poly[oxy(methyl-1,2-ethanediyl)]-, ,alpha.-[3-substituted-1-oxo-2-alken-1-yl]-.omega.-hydroxy-, alkyl ethers. |
| P–12–0326 | 04/20/2012 | 07/18/2012 | Royal Adhesives and Sealants. | (S) Component of 2-component reactive polyurethane adhesive resin. | (G) Dicyclohexylmethane-4,4′-diisocyanate, polymer with ethoxylated, propoxylated polyethers. |
| P–12–0327 | 04/20/2012 | 07/18/2012 | CBI | (G) Polymer reinforcement. | (G) Alkylsilane. |

TABLE I—25 PMNS RECEIVED FROM 04/09/12 TO 04/30/12—Continued

| Case No. | Received date | Projected notice end date | Manufacturer/importer | Use | Chemical |
|---|---|---|---|---|---|
| P–12–0328 .... | 04/23/2012 | 07/21/2012 | CBI ..... | (G) Resin in production of synthetic leather. | (G) MDI modified polyester with 1,2-ethanediol, iso-propyl alc-blocked. |
| P–12–0329 .... | 04/23/2012 | 07/21/2012 | CBI ..... | (G) Lamination adhesive. | (G) MDI modified polyester with castor oil. |
| P–12–0330 .... | 04/24/2012 | 07/22/2012 | CBI ..... | (G) Resin for water-borne inks. | (G) Acrylic waterborne emulsion. |
| P–12–0331 .... | 04/24/2012 | 07/22/2012 | CBI ..... | (G) Pigment dispersant | (G) 2-propenoic acid, 2-methyl-, substituted dialkylamino ethyl ester, polymer with butyl 2-propenoate, compounds with polyether hydrogen maleate alkyl ethers. |
| P–12–0332 .... | 04/27/2012 | 07/25/2012 | CBI ..... | (G) Destructive use ..... | (G) Brominated distillation bottoms. |
| P–12–0333 .... | 04/27/2012 | 07/25/2012 | CBI ..... | (G) Destructive use ..... | (G) Brominated distillation bottoms. |
| P–12–0334 .... | 04/27/2012 | 07/25/2012 | CBI ..... | (S) Extrusion molding of tubing; injection molding of special applications. | (G) Brassylic acid-1, 10-decanediamine copolymer. |
| P–12–0335 .... | 04/27/2012 | 07/25/2012 | CBI ..... | (G) Colorant for the coloration of cellulosic materials. | (G) Benzoic acid, 4-[substituted diamino-5-(disubstituted phenylazo)-phenylazo]-, sodium potassium salt. |

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE II—28 NOCS RECEIVED FROM 04/09/12 TO 04/30/12

| Case No. | Received date | Commencement notice end date | Chemical |
|---|---|---|---|
| P–09–0380 .... | 04/25/2012 | 04/17/2012 | (G) Barium, dialkyl 2-sulfobutanedioate phosphate complexes. |
| P–09–0384 .... | 04/11/2012 | 03/15/2012 | (G) Carboxy functional zircoaluminate chloride hydroxide polymer. |
| P–10–0046 .... | 04/25/2012 | 04/08/2012 | (S) 1,4-benzenedicarboxylic acid, polymer with 2,2-bis(hydroxymethyl)-1,3-propanediol, hexanedioic acid, .alpha.-hydro-.omega.-hydroxypoly(oxy-1,2-ethanediyl), 1,3-isobenzofurandione and 2,2′-oxybis[ethanol], benzoate. |
| P–10–0098 .... | 04/17/2012 | 02/27/2012 | (G) 2-propenoic acid, 2-methyl-, polymer with substituted esters with acrylic acid and 2-propenoic acid. |
| P–11–0063 .... | 04/17/2012 | 04/04/2012 | (G) Perfluoroalkyl acrylate copolymer. |
| P–11–0086 .... | 04/12/2012 | 03/17/2012 | (G) Polyfluoroalkyl phosphoric acid. |
| P–11–0359 .... | 04/18/2012 | 04/14/2012 | (G) Fatty acids polymers with alkanoic acid, subsituted alkyl diol and substituted carbomoncycle. |
| P–11–0571 .... | 04/16/2012 | 04/09/2012 | (G) Aryloxy dialkanol. |
| P–11–0587 .... | 04/25/2012 | 04/21/2012 | (G) Substituted benzimidazol sulfonic acid. |
| P–11–0618 .... | 04/25/2012 | 04/21/2012 | (G) Substituted anthraquinone derivative. |
| P–11–0663 .... | 04/09/2012 | 02/16/2012 | (G) Amides, from $C_{18}$-unsaturated fatty acids dimers,hydrogenated benzaldehyde -polyethylenepolyamines reaction products and tall-oil fatty acids. |
| P–12–0073 .... | 04/06/2012 | 04/02/2012 | (G) Castor oil, polymer with hydrogenated vegetable oil, 1,1′-methylenebis[isocyanatobenzene] and isocynate. |
| P–12–0074 .... | 04/15/2012 | 03/21/2012 | (G) Halogenated substituted alkane, potassium salt. |
| P–12–0075 .... | 04/15/2012 | 03/21/2012 | (G) Halogenated substituted alkane, potassium salt. |
| P–12–0077 .... | 04/15/2012 | 03/29/2012 | (G) Salt of alkyl-substituted nitrogen heterocycle. |
| P–12–0086 .... | 04/24/2012 | 04/13/2012 | (G) Polyurethane prepolymer. |
| P–12–0090 .... | 04/13/2012 | 04/06/2012 | (G) Hydrocarbon urethane. |
| P–12–0091 .... | 04/23/2012 | 04/10/2012 | (G) Alkylacrylic acid telomer with carboxylic acid, bisulfite, ester with .alpha.-alkyl-.omega.-hydroxypoly(oxyalkanediyl), alkali metal salt. |
| P–12–0093 .... | 04/25/2012 | 04/10/2012 | (G) Modified epoxy resin. |
| P–12–0098 .... | 04/25/2012 | 04/10/2012 | (G) Modified epoxy resin. |
| P–12–0112 .... | 04/16/2012 | 04/09/2012 | (G) Carboxylic acid, polymer with .alpha.-hydro-.omega.-hydroxypoly(oxy-1,2-ethanediyl) and 2,2′-oxybis[ethanol]. |
| P–12–0119 .... | 04/11/2012 | 04/06/2012 | (G) Dodeca(lithium, sodium)-2-({4-[4-(4-{bis[alkyl-(sulfonatoalkoxy)-4-({sulfonato-[(sulfonato-[(substituted-phenyl)diazenyl]phenyl}diazenyl)anilino]-triazin-yl}-6-[alkyl-(sulfonatoalkoxy)-4-({sulfonato-4-[(substituted-phenyl)diazenyl]phenyl)diazenyl)anilino]piperazin-yl)-triazin-ylamino]-alkyl-(sulfonatoalkoxy)phenyl}diazenyl)-5-[(sulfonatophenyl)diazenyl]benzenesulfonate. |
| P–12–0120 .... | 04/11/2012 | 04/06/2012 | (G) Pentasodium 2-(bis(substituted-(substituted-sulfonatophenyl)diazenyl-2-(sulfonatoalkoxy)anilino]triazin-ylamino) alkanesulfonate. |

TABLE II—28 NOCS RECEIVED FROM 04/09/12 TO 04/30/12—Continued

| Case No. | Received date | Commencement notice end date | Chemical |
|---|---|---|---|
| P–12–0128 .... | 04/11/2012 | 04/06/2012 | (G) Reaction product of {mixture of [polysubstituted-sulfonylphthalocyaninato- *N*(29), *N*(30), *N*(31), *N*(32)] copper(ii) and [polysubstituted-sulfonyl(tribenzo-[b,g,l] pyrido[2,3-q]-tetraazaporphyrinato- *N*(21), *N*(22), *N*(23), *N*(24))]copper(ii) and [polysubstituted-sulfonyl(dibenzo- [b,g(or b,l)]dipyrido[2,3 (or 3,2)-l,q(or g,q)]-tetraazaporphyrinato- *N*(21), *N*(22), *N*(23), *N*(24))]copper(ii) and [substituted-sulfonyl(benzo[b]tripyrido[2,3 (or 3,2)-g,l,q]-tetraazaporph yrinato- *N*(21), *N*(22), *N*(23), *N*(24))] copper(ii)} and 2-[4-(aminoalkylamino)-6-(benzylamino)-triazin-ylamino] benzenedisulfonic acid. |
| P–12–0129 .... | 04/11/2012 | 04/06/2012 | (G) Hexa(sodium, lithium)-4-{[substituted-hydroxy-({4-[alkoxy-sulfonatobenzothiazolyl) diazenyl]-alkyl-2-(sulfonatoalkoxy)phenyl}diazenyl)naphthalene-yl] diazenyl}-substituted-(sulfonatophenyl)pyrazole-3-carboxylate. |
| P–12–0137 .... | 04/16/2012 | 04/12/2012 | (S) Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid and 1,1′-methylenebis[4-isocyanatocyclohexane], diethylamine-blocked, compounds with triethylamine. |
| P–12–0144 .... | 04/16/2012 | 04/07/2012 | (G) 2-propenoic acid, 2-methyl-, polymer with substitutedoxirane, ethenylbenzene, ethenylbenzene telomer with substitutedpropanoic acid 2-hdyroxy-3-[(2-methyl-1-oxo-2-propen-1-yl)oxy]propyl ester, 2-ethyl-2-(hydroxymethyl)-1,3-propanedoil and.alpha.-(2-methyl-1-oxo-2-propen-1-yl)-.omega.-(2-ethylhexyloxy)poly(oxy-1,2-ethanediyl), alkali metal salt. |

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

**List of Subjects**

Environmental protection, Chemicals, Hazardous substances, Imports, Notice of commencement, Premanufacturer, Reporting and recordkeeping requirements, Test marketing exemptions.

Dated: May 21, 2012.

**Chandler Sirmons,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2012–13437 Filed 6–1–12; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**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. 3501–3520), 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 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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 ways to further reduce the information burden for 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 August 3, 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, 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, (202) 418–0214.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0297.

*Title:* Section 80.503, Cooperative Use of Facilities.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not-for-profit institutions; Federal Government and State, Local, or Tribal Government.

*Number of Respondents:* 100 respondents; 100 responses.

*Estimated Time per Response:* 16 hours.

*Frequency of Response:* Recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 151–155, 301–609 of the Communications Act of 1934, as amended; and 3 UST 3450, 3 UST 4726, 12 UST 2377.

*Total Annual Burden:* 1,600 hours.

*Total Annual Cost:* N/A.

*Privacy Impact Assessment:* N/A.

*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 from them. There are no changes to the recordkeeping requirements. The Commission is reporting no change in their 2009 burden estimates.

The recordkeeping requirements contained in 47 CFR 80.503 of the Commission's rules are necessary to ensure licensees which share private facilities operate within the specified scope of service, on a non-profit basis, and do not function as communications

common carriers providing ship-shore pubic correspondence services.

The information is used by FCC personnel during inspection and investigations to insure compliance with applicable rules. If this information was not available, enforcement efforts could be hindered; frequency congestion in certain bands could increase; and the financial viability of some public coast radiotelephone stations could be threatened.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2012–13449 Filed 6–1–12; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission.

**DATE & TIME:** Tuesday June 5, 2012 at 10:00 a.m.

**PLACE:** 999 E Street NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 25, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

**PERSON TO CONTACT FOR INFORMATION:** Judith Ingram, Press Officer. Telephone: (202) 694–1220.

**Shawn Woodhead Werth,**

*Secretary and Clerk of the Commission.*

[FR Doc. 2012–13395 Filed 6–1–12; 8:45 am]

**BILLING CODE 6715–01–M**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB With Request for Comments

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

On February 22, 2012, the Federal Reserve published a notice in the **Federal Register** (77 FR 10525) requesting public comment for 60 days to revise, without extension, the Capital Assessments and Stress Testing information collection. The comment period for this notice expired on April 23, 2012. The Federal Reserve received six comment letters. The substantive comments are summarized and addressed below.

**DATES:** Comments must be submitted on or before July 5, 2012.

**ADDRESSES:** You may submit comments, identified by FR Y–14A/Q/M, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

*Final approval under OMB delegated authority to revise, without extension, the following report:*

*Report title:* Capital Assessments and Stress Testing information collection.

*Agency form number:* FR Y–14A/Q/M.

*OMB Control Number:* 7100–0341.

*Effective Date:* June 30, 2012.

*Frequency:* Annually, quarterly, and monthly.

*Reporters:* Large domestic bank holding companies that participated in the 2009 Supervisory Capital Assessment Program (SCAP) and the Comprehensive Capital Analysis and Review 2011 (CCAR 2011) exercises (BHCs).

*Estimated annual reporting hours:* FR Y–14A: Summary, 15,580 hours; Macro scenario, 589 hours; Counterparty credit risk (CCR), 2,292 hours; Basel III/Dodd-Frank, 380 hours; and Regulatory capital instruments, 380 hours. FR Y–14 Q: Securities risk, 760 hours; Retail risk, 288,800 hours; Pre-provision net revenue (PPNR), 47,500 hours; Wholesale corporate loans, 3,840 hours; Wholesale commercial real estate (CRE) loans, 4,560 hours; Trading, private equity, and other fair value assets (Trading risk), 41,280 hours; Basel III/Dodd-Frank, 1,140 hours; Regulatory capital instruments, 2,280 hours; and Operational risk, 2,128 hours. FR Y–14M: Retail 1st lien mortgage, 72,240 hours; Retail home equity, 67,080 hours; and Retail credit card, 56,760 hours.

*Estimated average hours per response:* FR Y–14A: Summary, 820 hours; Macro scenario, 31 hours; CCR, 382 hours; Basel III/Dodd-Frank, 20 hours; and Regulatory capital instruments, 20 hours. FR Y–14Q: Securities risk, 10

hours; Retail risk, 3,800 hours; PPNR, 625 hours; Wholesale corporate loans, 60 hours; Wholesale CRE loans, 60 hours; Trading risk, 1,720 hours; Basel III/Dodd-Frank, 20 hours; Regulatory capital instruments, 40 hours; and Operational risk, 28 hours. FR Y–14M: Retail 1st lien mortgage, 430 hours; Retail home equity, 430 hours; and Retail credit card, 430 hours.

*Number of respondents:* FR Y–14A: Summary, 19; Macro scenario, 19; CCR, 6; Basel III/Dodd-Frank, 19; and Regulatory capital instruments, 19. FR Y–14Q: Securities risk, 19; Retail risk, 19; PPNR, 19; Wholesale corporate loans, 16; Wholesale CRE loans, 19; Trading risk, 6; Basel III/Dodd-Frank, 19; Regulatory capital instruments, 19; and Operational risk, 19. FR Y–14M: Retail 1st lien mortgage, 14; Retail home equity, 13; and Retail credit card, 11.

*General description of report:* The FR Y–14 series of reports are authorized by section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), which requires the Federal Reserve to ensure that certain BHCs and nonbank financial companies supervised by the Federal Reserve are subject to enhanced risk-based and leverage standards in order to mitigate risks to the financial stability of the United States (12 U.S.C. 5365). Additionally, section 5 of the BHC Act authorizes the Board to issue regulations and conduct information collections with regard to the supervision of BHCs (12 U.S.C. 1844).

As these data are collected as part of the supervisory process, such information may be afforded confidential treatment under exemption 8 of the Freedom of Information Act (5 U.S.C. 552(b)(8)). In addition, commercial and financial information contained in these information collections may be exempt disclosure under exemption 4 (5 U.S.C. 552(b)(4)). Such exemptions would be made on a case-by-case basis.

*Abstract:* The FR Y–14A annually collects large BHCs' quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios. The FR Y–14Q collects granular data on BHCs' various asset classes and PPNR for the reporting period, which are used to support supervisory stress test models and for continuous monitoring efforts, on a quarterly basis. The new FR Y–14M will collect one loan-level collection for *Domestic First Lien Closed-End 1–4 Family Residential Mortgage* data, one loan-level collection for *Domestic Home Equity Residential Mortgage* data, one account- and portfolio-level collection for *Domestic Credit Card* data, and one collection for *Address Matching* data to supplement the two mortgage collections.

*Current actions:* On February 22, 2012, the Federal Reserve published a notice in the **Federal Register** (77 FR 10525) requesting public comment for 60 days to revise, without extension, the FR Y–14 information collection. The comment period expired on April 23, 2012. The Board received six comment letters from four BHCs and four trade associations.[1] All substantive comments are summarized and addressed below.

The FR Y–14A/Q/M revisions proposed in the Federal Reserve's February 2012 **Federal Register** notice, effective June 30, 2012, included (1) implementing a new monthly schedule, the FR Y–14M, which would collect data previously collected on several quarterly Retail Risk portfolio-level worksheets (two new loan-level collections and one new loan- and portfolio-level collection), and collecting detailed address matching data for the two loan-level collections; (2) revising the quarterly Wholesale Risk schedule (corporate loan data collection) by adding data items that would allow the Federal Reserve to derive an independent probability of default, expanding the scope of loans included in the collection by moving loans from the CRE data collection to the corporate loan data collection, clarifying definitions of existing data items, and requesting additional detail about collateral securing a facility; (3) revising the quarterly Wholesale Risk schedule (CRE collection) by moving loans to the corporate loan data collection, adding a non-accrual data item, and modifying the loan status data item to include the number of days past due; (4) implementing a new quarterly Operational Risk schedule to gather data that would support supervisory stress test models to forecast the BHCs' operational loss levels under various macroeconomic conditions; and (5) expanding the respondent panel (for the FR Y–14 A/Q/M) to include large banking organizations that meet an asset threshold of $50 billion or more in total consolidated assets (large BHCs), as defined by the Capital Plan Rule (12 CFR 225.8).

**Summary of Comments**

The Federal Reserve received comments from the industry by letter, email, and orally through industry outreach calls. Most of the comments received requested clarification of the instructions for the information to be reported, or were technical in nature. Response to these comments will be addressed in the final FR Y–14 reporting instructions. The following is a detailed discussion of aspects of the proposed FR Y–14 collection for which the Federal Reserve received one or more substantive comments and an evaluation of, and response to, the comments received.

*A. General*

In general, three trade associations expressed support for the capital adequacy and risk review process proposed by the Federal Reserve and appreciated the opportunity for public comment on the proposed schedules. However, the commenters noted their concerns about the scope of the information collection increasing since the release of the Federal Reserve's 2012 CCAR.

The trade associations commented that the time schedule proposed for submitting the data imposes burden on the BHCs' resources that are already fully dedicated to submitting other regulatory reports during the same time period. The commenters requested that the FR Y–14Q be submitted 60 days after quarter end, as opposed to 40 days (for the first, second, and third quarters) and 45 days (for the fourth quarter) after the quarter end. The Federal Reserve is cognizant of the extra resources BHCs must devote to prepare data submissions for the first quarter data are being implemented. However, the Federal Reserve expects that subsequent submissions would require fewer resources given that BHCs would likely automate much of the process. Further, BHCs already aggregate the more granular data reported in the FR Y–14Q and the FR Y–14M schedules for their Consolidated Financial Statements for Bank Holding Companies (FR Y–9C; OMB No. 7100–0128) reporting. Therefore, the Federal Reserve will allow BHCs to request approval to file a late submission following major revisions to data schedules.

One commenter suggested that the Federal Reserve provide an acquiring bank with one year to incorporate the assets into its systems before requiring data to be submitted for the FR Y–14. The Federal Reserve has reached out to several BHCs to inquire about the challenges associated with providing data on merged portfolios. Through those inquiries, the Federal Reserve has learned that the amount of time required to integrate the risk information from a new portfolio with the risk information

[1] Three trade associations submitted a joint comment letter.

from an existing portfolio varies greatly depending on the similarities of the risk information in the two portfolios. The Federal Reserve will consider on a case-by-case basis requests from BHCs to file a delayed submission for newly acquired data (integrated with the legacy portfolio) following an acquisition.

Several commenters suggested that BHCs with assets greater than $50 billion (covered companies) that have not previously participated in CCAR should receive extra time to make their first submissions. While the Federal Reserve believes that the proposed data items reflected important elements of any sound risk management system for large BHCs, the Federal Reserve agrees that BHCs not previously subject to CCAR would benefit from additional time to build their internal reporting systems. As a result, the Federal Reserve finalized the proposed schedules only for the 19 BHCs that have previously participated CCAR at this time. The Federal Reserve may publish a separate proposal to address data requirements for the remaining covered companies in the future.

*B. FR Y–14M: Domestic First Lien Closed-End 1–4 Family Residential Mortgage (first lien), Domestic Home Equity Residential Mortgage (Home Equity), Domestic Credit Cards, and Address Matching Schedules*

The Federal Reserve proposed that respondents would submit loan-level monthly data schedules for material first lien, home equity, and credit card portfolios. Several commenters noted that the monthly proposed schedules contain a number of substantive data items that are duplicative of data collected by other agencies, namely the Office of the Comptroller of the Currency (OCC). The Federal Reserve has reviewed the OCC's data collections and determined that the collections differ in scope and substance. For example, the universe of loans proposed to be collected in the FR Y–14M includes all loans owned or serviced by the BHCs, while the OCC collects all loans serviced by national banks. Furthermore, there are definitional differences between the data items collected by the OCC and those proposed by the Federal Reserve.

The agencies' staff worked together to ensure that data items included in the final schedules (or data items specifically suggested by the industry) aligned to the extent possible with the OCC data collections. In response to the comments, the Federal Reserve will broaden the scope of the monthly Domestic Credit Card schedule to include all credit cards, not just those reported on the FR Y–9C in Schedule HC–C, Loans and Lease Financing Receivables, data items 4.a, commercial and industrial loans to U.S. addressees, and 6.a, credit cards, as originally proposed. In particular, this schedule will now include credit card and charge card loans included in data item 6.d, other consumer loans. In addition, the Federal Reserve is continuing to work with the OCC and anticipates engaging other agencies in discussions to determine how best to collect the data so as to satisfy each agency's mandate while imposing minimal burden on the industry. If any future revisions are required based on this more extensive review, the agencies would publish information collection notices in the **Federal Register** to seek comment on any future revisions to their collections.

One commenter requested clarity on how to report ''Income Source at Origination'' for purchased loans where this information is not available. The Federal Reserve will revise the four choices of answers to read: Individual, at origination; Household, at origination; Individual, at acquisition; and Household, at acquisition.

Several commenters noted that the proposed first lien and home equity schedules were not clear regarding whether only loans owned by the respondent or loans serviced by the respondent would be reported. The Federal Reserve will collect data on both owned and serviced portfolios. In making this final determination, the Federal Reserve carefully weighed the benefits of capturing servicing data versus the burden imposed on the respondents. During an industry outreach call, one participant indicated that the burden associated with reporting the servicing portfolio loans would be minimal because those data are already aggregated. The collection of the servicing portfolio loans will allow the Federal Reserve to investigate other potential risk factors, such as factors associated from multiple loans being collateralized by the same property.

One commenter suggested that the data for BHC-owned loans serviced by third parties be collected at the portfolio-level with an extended due date. The Federal Reserve will implement the revisions as proposed, as many of the data items in the schedules will be used for ongoing internal risk management. The Federal Reserve expects that most respondents can readily access the information for BHC-owned loans. However, the Federal Reserve recognizes that it may be more difficult for the BHCs to initially submit the data as requested for loans serviced by other entities. Over time the Federal Reserve expects that BHCs will maintain the data as requested by the Federal Reserve in their internal systems. The Federal Reserve will consider on a case-by-case basis request to file a delayed submission for portfolio loans serviced by others.

Two commenters noted that the proposed first lien and home equity schedules were unclear as to whether real estate owned after foreclosure but before the disposition of the property would need to be reported. The commenters suggested that many of the data items in the first lien and home equity schedules are related to loans, and thus would not be available for real estate owned. In light of the comments, the Federal Reserve will require the reporting of loans through the month they were liquidated or transferred to another servicer. The Federal Reserve believes it is important to capture data for the final month in order to understand what happened to loans that cease to be a part of the data collection (to help determine, for example, if the loan dropped out of the data collection due to a prepayment, liquidation, or servicer transfer).

Several commenters noted inconsistencies between the definitions for similar data items in the first lien and home equity schedules. The commenters requested standardized data item definitions across the two collections. The schedules were reviewed and several definitions were identified that could be standardized (for example, Product Type, Income Documentation, Property Type, Refreshed Property Valuation Method, Foreclosure Status, and Occupancy); therefore, the Federal Reserve will implement these standardized definitions.

Several commenters noted that some data items in the first lien and home equity schedules would be difficult to provide. In some cases, the commenters suggested that the data items could be provided at a portfolio-level but not at a loan-level, while in other cases the commenters noted that some data items are not maintained for certain loan types. The Federal Reserve carefully considered these comments, and reviewed the reporting instructions to identify data items that would be difficult to report at the loan-level. Based on the review, the Federal Reserve will (1) modify these loan-level collections to include the reporting of portfolio-level data for certain items such as purchase impairments which typically are unavailable at the loan-level and (2) require that only certain data items be reported for loans serviced

for others or loans obtained through mergers or acquisitions.

Several commenters suggested adding a number of data items to the first lien and home equity schedules. The Federal Reserve reviewed the data items proposed by the commenters, and carefully weighed the value of having the items versus the additional burden on respondents. While, in most cases, the Federal Reserve does not have sufficient evidence to justify the inclusion of the data items, there were a few instances in which it was determined that the value of having the data items outweighed the burden imposed on respondents.

One commenter suggested that the address matching schedule be appended to the first lien and home equity schedules to reduce the number of schedules. The Federal Reserve does not believe incorporating this suggestion would reduce the overall burden on respondents and will maintain the structure of schedules as proposed.

*C. FR Y–14Q Wholesale Schedule (Corporate Loan and CRE Collections)*

One commenter suggested that respondents should not be required to provide a guarantor's tax ID number. The commenter noted that it is not relevant for the information collection, and expressed concerns about the sensitivity of the information. The Federal Reserve notes that while all information reported in the FR Y–14 is confidential supervisory information, extra care should be taken to protect the privacy of individuals; therefore the Federal Reserve will implement the instructions as proposed, which indicate that if the guarantor is a natural person, respondents should not report the tax ID number.

One commenter noted that the Federal Reserve should not model probability of default (PD) on corporate loans. Specifically, the commenter stated that internal bank ratings produce a better estimate of PD than would be done based on the reported data. The commenter also noted that the Federal Reserve should use reporter generated PDs when evaluating capital submissions. The Federal Reserve notes that the process of mapping the internal ratings to a common scale introduces a potential for inconsistency due to possible differences in the way BHCs' assign internal ratings. Collecting the data necessary to calculate the PD on corporate loans would enhance the comparability of estimated PDs across BHCs and promote greater consistency in supervisory stress test estimates. Therefore, the Federal Reserve will implement the revision as proposed.

Several commenters suggested that a number of the data items requested in the corporate loan collection may not be readily available, and some of the data items may not be available for certain types of loans. The Federal Reserve spoke with several BHCs to determine whether the proposed data items would be available in the BHCs' credit risk systems. These discussions revealed that all of these BHCs use financial spreading software and while the systems varied, they capture all or most of the proposed data items. Though it is possible that some BHCs may not use financial spreading software, which would result in the increased burden, the Federal Reserve believes the benefit of the data outweighs the increased burden and recommends implementing the revision as proposed. The Federal Reserve also recognizes that for certain categories of borrowers the financial information may not be readily available. Therefore, the Federal Reserve will revise the instructions to exclude certain populations of loans on which the Obligor Financial Information may not be available.

One commenter noted that, in the corporate loan collection, the Federal Reserve should define obligor for purposes of the Obligor Financial Information section to be the ''risk unit underwritten by the BHC for the purpose of approving the loan.'' The commenter further noted that, in cases in which there are multiple obligors, it is possible that a different obligor in the credit agreement could drive default risk. The Federal Reserve agrees with the comment. These situations may be rare, but could lead to an overestimation of credit risk. The current structure of the collection is based on the legal borrowing entity. The Federal Reserve believes that, for consistency, it is important to retain the link between the legal borrowing entity and the other data items. However, the Federal Reserve will allow a respondent to submit the financial information in the Obligor Financial Information section for the entity that represents the primary source of repayment (i.e. not a guarantor). The Federal Reserve will add three identification data items to capture information about the entity underwritten by the respondent in cases in which that entity is different from the obligor.

*D. FR Y–14Q Operational Risk Schedule*

A trade association provided a general comment expressing support for collecting quarterly data on operational risk, but had concerns about implementing the proposed new schedule on operational risk.

Several commenters requested that the Federal Reserve not collect data on legal reserves for pending and probable litigation claims on the proposed Operational Risk schedule. The commenters had concerns that the Federal Reserve may not be able to guarantee the confidentiality of the information in all cases; the data could become discoverable in third-party litigation; and should the information make its way into the public domain, it could significantly jeopardize the BHC's position in litigation. Based on the comments received and subsequent discussions with commenters, the Federal Reserve's preliminary view is that these concerns are justified. Accordingly, the Federal Reserve will not require BHCs to submit these data as part of the June collection. However, the Federal Reserve will implement the remainder of Operational Risk schedule as proposed.

Furthermore, Federal Reserve will re-open the comment period on legal reserves for an additional 30 days to facilitate feedback on methods that would enable the Federal Reserve to collect legal reserves data in a fashion that would protect the confidentiality of the information. See the Supplementary Information section below for additional information.

One commenter suggested requiring the submission of data on loss events of $20,000 or more. Supervisory stress testing of operational risk is focused on estimating expected loss under certain macroeconomic scenarios. As such, the reporting of operational losses at and above the BHC-established collection threshold, versus a fixed threshold, is necessary as the full distribution of captured losses is important to expected loss estimation. The Federal Reserve will implement the revision as proposed.

One commenter suggested providing flexibility with how each loss event is assigned to a business line(s), event type(s), or accounting date(s). The Federal Reserve agrees with this comment and will revise the reporting instructions. The instructions will no longer require single loss events that affect multiple business lines to be ''aggregated'' into one business line (the business line which incurred the largest loss amount). Instead, the revised instructions will enable institutions to report multiple records or transactions for the same loss event and to respectively assign those records or transactions to the appropriate business line.

One commenter also noted that providing a single ''Accounting Date'' per loss event would be confusing,

because BHCs do not typically have a single accounting date for every loss event. As described above, the reporting instructions have been revised to require the quarterly submission of the BHCs' complete history of operational losses. This will enable BHCs to submit multiple transactions or records for the same loss event, as long as multiple transactions or records contain the same reference number for the respective event.

Several commenters requested that the data collection be revised to allow BHCs' to submit their entire operational loss databases, rather than only submitting new and amended events every quarter. The commenters stated that separating the new and amended loss events would be burdensome. The original proposal was written in the spirit of reducing burden on the respondents and therefore, based on the comments, the Federal Reserve will revise the instructions to require submission of the entire database every quarter.

One commenter suggested allowing BHCs additional time to submit their data after the quarter end. In order to facilitate timely risk monitoring and entry to supervisory models, operational loss data must be submitted within time schedule prescribed; therefore, the Federal Reserve will implement the time schedule requirements as proposed.

One commenter suggested that certain BHCs be exempt from using the definitions of Level 1 and Level 2 Business Lines as described in the instructions. The Federal Reserve believes that having consistent definitions of business lines is critical for the comparability of data across BHCs. BHCs should map their internal business lines as defined in the instructions. The Federal Reserve will implement the requirements as proposed.

**SUPPLEMENTARY INFORMATION:**

## Request for Comment on Information Collection Proposal

*Abstract:* As mentioned above in the *Current Actions* section, the Federal Reserve will not require BHCs to submit legal reserves data as part of the June collection. Instead, the Federal Reserve is re-opening the public comment period for 30 days and requesting comments on collecting these data in one or more of the following ways:

1. Collect the data on an aggregate level rather than on a granular loss event-level (for example, the number of loss events and the average estimated reserve amount for these events);

2. Collect data on legal reserves in an anonymous fashion such that neither the identity of the BHC or the loss event would be known; and

3. Collect the data in a way such that BHCs would submit a combination of actual and randomized data,[2] so as not to reveal how any particular data item would or could tie back to an actual loss event for a particular BHC.

In addition, the Federal Reserve also is requesting comment on other methods that would allow the Federal Reserve to measure, understand, and analyze these types of legal risk without requiring a BHC to submit data on specific legal reserves.

The collection of these data or any new reporting requirements related to these data would take effect no sooner than the September 30, 2012, report date.

Additional comments are also invited on:

a. Whether the proposed collection of information is necessary for the proper performance of the agencies' functions; including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

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

All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System.

Dated: May 29, 2012.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 2012–13397 Filed 6–1–12; 8:45 am]

**BILLING CODE 6210–01–P**

[2] Randomizing survey responses have been a common technique when asking sensitive questions since the mid-1960's. The Federal Reserve will provide more detail on such techniques upon request and anticipates that industry outreach calls would be conducted if this reporting option is selected.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**[Document Identifier: OS–0990–NEW; 30-day notice]**

## Agency Information Collection Request. 30-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202–395–5806.

*Proposed Project:* Survey of Primary Care Physicians on Oral Health for the Office on Women's Health (OWH),—OMB No. 0990–NEW, Department of Health and Human Services (HHS).

*Abstract:* The Office on Women's Health (OWH) at the Department of Health and Human Services is requesting OMB approval to conduct a new, one time survey of primary care physicians regarding oral health. This survey will provide the agency with information on oral health knowledge, attitudes, and professional experience among practicing physicians throughout the U.S. The study will explore physicians' level of understanding of oral disease and what constitutes health for the oral cavity, oral health training and support needs, current practices and barriers to further involvement.

OWH is requesting two years of OMB approval to enable sampling, screening, and survey implementation.

ESTIMATED ANNUALIZED BURDEN TABLE

| Type of respondent | Form name | Number of respondents | Number responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Medical Secretary | Screener | 1,300 | 1 | 5/60 | 108 |
| Physician | Survey | 600 | 1 | 20/60 | 200 |
| Total | | | | | 308 |

**Keith A. Tucker,**

*Office of the Secretary, Paperwork Reduction Act Clearance Officer.*

[FR Doc. 2012–13396 Filed 6–1–12; 8:45 am]

BILLING CODE 4150–33–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Patient Safety Organizations: Expired Listing for The American Cancer Biorepository, Inc. d/b/a American Collaborative Biorepository or ''ACB''

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Notice of delisting.

**SUMMARY:** AHRQ has delisted The American Cancer Biorepository, Inc. d/b/a American Collaborative Biorepository or ''ACB'' as a Patient Safety Organization (PSO) due to its failure to seek continued listing. The Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity is to conduct activities to improve patient safety and the quality of health care delivery. HHS issued the Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs.

**DATES:** The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12 Midnight ET (2400) on April 21, 2012.

**ADDRESSES:** Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/index.html.*

**FOR FURTHER INFORMATION CONTACT:** Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@AHRQ.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

The Patient Safety Act, Public Law 109–41, 42 U.S.C. 299b–21—b–26, provides for the formation of PSOs, which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety Rule, 42 CFR part 3, authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs. Accordingly, The American Cancer Biorepository, Inc. d/b/a American Collaborative Biorepository or ''ACB'', PSO number P0036, was delisted effective at 12:00 Midnight ET (2400) on April 21, 2012.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html.*

Dated: May 22, 2012.

**Carolyn M. Clancy,**

*Director.*

[FR Doc. 2012–13307 Filed 6–1–12; 8:45 am]

BILLING CODE 4160–90–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### AHRQ Workgroups on ICD–10–CM/PCS Conversion of Quality Indicators (QIs)

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Notice of request for nominations.

**SUMMARY:** The Agency for Healthcare Research and Quality (AHRQ) is seeking nominations for members of approximately 10 multidisciplinary workgroups, to be convened by AHRQ's contractor, on ICD–10–CM/PCS conversion of the AHRQ Quality Indicators (QIs).

**DATES:** Please submit nominations on or before June 29, 2012. Self-nominations are welcome. Third-party nominations must indicate that the individual has been contacted and is willing to serve on the workgroup. Selected candidates will be notified no later than July 13, 2012.

**ADDRESSES:** Nominations can be sent in the form of a letter or email, preferably as an electronic file with an email attachment and should specifically address the submission criteria as noted below. Electronic submissions are strongly encouraged. Responses should be submitted to: ATTN: John Bott, Agency for Healthcare Research and Quality, Center for Delivery, Organization and Markets, 540 Gaither Road, Room 5119, Rockville, MD 20850, Email: *john.bott@AHRQ.hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** John Bott, Agency for Healthcare Research and Quality, Center for Delivery, Organization and Markets, 540 Gaither Road, Room 5119, Rockville, MD 20850, Email: *john.bott@AHRQ.hhs.gov;* Phone: (301) 427–1317; Fax: (301) 427–1430.

**SUPPLEMENTARY INFORMATION:** These workgroups are being formed as part of a structured approach for converting the

existing QI specifications from ICD–9–CM to ICD–10–CM/PCS, incorporating coding expertise, clinical expertise, and health services research/quality measurement expertise. The workgroups will evaluate the results of automated ''code mapping'' from ICD–9–CM to ICD–10–CM/PCS, providing input and advice regarding similarities and differences between ICD–9–CM and ICD–10–CM/PCS codes that are mapped to each other. This workgroup process will lead to recommendations regarding how the existing AHRQ QIs should be re-specified using ICD–10–CM/PCS codes, retaining the original clinical intent of each indicator while taking advantage of the greater specificity of ICD–10–CM/PCS to improve the indicator's validity. Workgroup participation will be uncompensated.

For additional information about the AHRQ QIs, please visit the AHRQ Web site at *http://www.QUALITYindicators.AHRQ.gov*.

Specifically, each Workgroup on ICD–10–CM/PCS Conversion of Quality Indicators will consist of:

- At least three individuals with relevant clinical expertise (e.g., cardiovascular disease, neurologic disease, orthopedic and musculoskeletal disease, obstetrics and gynecologic disease, surgery, critical care and pulmonary disease, diabetes and endocrine disease, infectious disease, neonatology and pediatric disease, miscellaneous) and at least two individuals with relevant coding expertise.
- One or more individuals with field experience using AHRQ QI measures for assessing hospital performance.
- One or more individuals with expertise in validating ICD–9–CM or ICD–10–CM/PCS codes using chart abstraction (to assess criterion validity), or otherwise assessing their accuracy and usefulness in identifying individuals with specific adverse outcomes.
- One or more individuals with experience using data from the AHRQ Healthcare Cost and Utilization Project or similar data for the purpose of calculating AHRQ QIs.

**Submission Criteria**

To be considered for membership on a QI ICD–10–CM/PCS Conversion Workgroup, please send the following information for each nominee:

1. A brief nomination letter highlighting experience and knowledge relevant to the development, refinement, or testing of quality measures based on ICD9–CM and/or ICD–10–CM/PCS coded data, and demonstrating familiarity with the AHRQ QIs and health care administrative data. (See selection criteria below.) The nominee's clinical or coding profession and specialty, and the spectrum of his or her clinical or coding expertise, should be described. Please include full contact information of nominee: name, title, organization, mailing address, telephone and fax numbers, and email address.
2. Curriculum vita (with citations to any pertinent publications related to quality measure specification, ICD–9–CM, or ICD–10–CM/PCS).
3. Description of any financial interest, recent conduct, or current or planned commercial, non-commercial, institutional, intellectual, public service, or other activities pertinent to the potential scope of the workgroups, which could be perceived as influencing the workgroup's process or recommendations. The objective is not to prevent nominees with potential conflicts of interest from serving on the panels, but to obtain such information so as to best inform the selection of workgroup members, and to help minimize such conflicts.

**Nominee Selection Criteria**

Nominees should have technical expertise in health care quality measure development, refinement, or application, and familiarity with the ICD–9–CM and ICD–10–CM/PCS code sets (especially insofar as they are used to specify quality measures).

More specifically, each candidate will be evaluated using the following criteria:

- Knowledge of health care quality measurement using administrative data in specific, relevant clinical domains (e.g., cardiovascular disease, neurologic disease, orthopedic and musculoskeletal disease, obstetrics and gynecologic disease, surgery, critical care and pulmonary disease, diabetes and endocrine disease, infectious disease, neonatology and pediatric disease, miscellaneous);
- Peer-reviewed publications relevant to developing, refining, testing, or applying health care quality measures based on ICD-coded administrative data;
- Other experience developing, refining, testing, or applying health care quality measures based on ICD-coded administrative data;
- Expertise in ICD–9–CM and/or ICD–10–CM/PCS coding;
- Expertise in hospital quality improvement, patient safety, and/or clinical documentation improvement;
- Familiarity with the AHRQ Quality Indicators and their application; and,
- Availability to participate in conference calls and provide written comments starting from late July through October 2012.

**Time Commitment**

In an effort to solicit expert input and recommendations on conversion of the AHRQ QIs from ICD–9–CM to ICD–10–CM/PCS, we are initiating a technical review process that will require participation in approximately three to five conference calls with some pre and post evaluation time (estimated at 13 hours). Results from this process will influence the conversion of the AHRQ QI from ICD–9–CM to ICD–10–CM/PCS. Beginning in late July through October, selected nominees will be asked to participate in the following activities:

**Workgroup Activities**

1. Review the current ICD–9–CM specifications of AHRQ QIs within the workgroup's clinical domain (e.g., cardiovascular disease, neurologic disease, orthopedic and musculoskeletal disease, obstetrics and gynecologic disease, surgery, critical care and pulmonary disease, diabetes and endocrine disease, infectious disease, neonatology and pediatric disease, miscellaneous), along with background documents justifying or explaining those specifications (about 1.5 hours).
2. Participate in teleconference to explain the workgroup activities and processes, and to discuss current QI specifications and their justification (1.0 hours).
3. Review proposed mapping of ICD–9–CM to ICD–10–CM/PCS codes and identify relevant questions and concerns (about 3 hours).
4. Participate in teleconference to discuss the proposed mappings, including relevant questions and concerns (1.5 hours).
5. Following a structured process (e.g., modified Delphi), provide specific input to support or modify the proposed mappings (about 2.5 hours).
6. Participate in teleconference to discuss areas of disagreement among workgroup members, and to achieve consensus when possible (1.5 hours).
7. Following a structured process (e.g., modified Delphi), provide specific input to support or modify the proposed mappings, incorporating changes accepted in previous steps (about 1.0 hour).
8. Participate in final (optional) teleconference to review final recommendations and discuss contextual issues (1.0 hour).

Please note that should additional conference calls be necessary, workgroup members are expected to make every effort to participate. The workgroups will conduct business by

telephone, email, or other electronic means as needed.

**Background**

The AHRQ Quality Indicators (AHRQ QIs) are a unique set of measures of health care quality that make use of readily available hospital inpatient administrative data. The QIs have been used for various purposes. Some of these include tracking, hospital self-assessment, reporting of hospital-specific quality or pay for performance. The AHRQ QIs are provider- and area-level quality indicators and currently consist of four modules: the Prevention Quality Indicators (PQI), the Inpatient Quality Indicators, the Patient Safety Indicators (PSI), and the Pediatric Quality Indicators (PedQIs). AHRQ is committed to converting the QIs from ICD–9–CM to ICD–10–CM/PCS in an accurate and transparent manner, taking advantage of the additional specificity of ICD–10–CM/PCS to improve the validity and usefulness of the QIs, from October 2014 onward.

Dated: May 24, 2012.

**Carolyn M. Clancy,**

*Director, AHRQ.*

[FR Doc. 2012–13306 Filed 6–1–12; 8:45 am]

**BILLING CODE 4160–90–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10390]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospice Quality Reporting Program; *Use:* Section 1814(i)(5) of the Social Security Act (the Act) added by section 3004 of the Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010 (Affordable Care Act) authorizes the Secretary to establish a quality reporting for hospices. Section 1814(i)(5)(A)(i) of the Act requires the Secretary, beginning with FY 2014, reduce the market basket update by 2 percentage points for any hospice that does not comply with the quality data submission requirements with respect to that fiscal year.

The Hospice Quality Data Submission Form was created for hospice providers to collect specified quality data and submit that data to CMS, for the data collection period starting October 1, 2012, through December 31, 2012, and continuing on a calendar year thereafter. Webinar training on data collection and data submission has been and will continue to be provided by CMS. Use of the Hospice Quality Data Submission Form is necessary in order for hospices to submit the quality data specified for the Hospice Quality Reporting Program. *Form Number:* CMS–10390 (OCN: 0938–1153); *Frequency:* Yearly; *Affected Public:* Individuals and households; *Number of Respondents:* 3632; *Total Annual Responses:* 7264; *Total Annual Hours:* 657,392. (For policy questions regarding this collection contact Robin Dowell at 410–786–0060. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by August 3, 2012:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 29, 2012.

**Martique Jones,**

*Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2012–13402 Filed 6–1–12; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5600–FA–17]**

### Announcement of Funding Awards for Fiscal Year 2012 Transformation Initiative: Choice Neighborhoods Demonstration Small Research Grant Program

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development (HUD) Reform Act of 1989, Appendix A of this notice announces HUD's funding awards for the Fiscal Year (FY) 2012 Transformation Initiative: Choice Neighborhoods Demonstration Small Research Grant Program (''Choice research grants'').

**FOR FURTHER INFORMATION CONTACT:** Paul Joice, Office of Policy Development and Research, U.S. Department of Housing and Urban Development. Room 8120, 451 7th Street SW., Washington, DC 20410. *Paul.A.Joice@hud.gov.*

**SUPPLEMENTARY INFORMATION:** The purpose of the Choice research grants program is to fund research related to Choice Neighborhoods that complements other Choice Neighborhoods research being pursued by HUD. On January 19, 2012, HUD published the Notice of Funding Availability (NOFA) announcing $500,000 in funds available for the Choice research grants program. On February 22, 2012, HUD published a technical correction to the NOFA, to provide additional details about other

HUD-funded research on Choice Neighborhoods. Applications were due on March 27, 2012. The Department reviewed, evaluated, and scored the applications received based on the criteria in the NOFA. As a result, and in accordance with Section 102(a)(4)(C) of the HUD Reform Act of 1989, HUD has funded the applications announced below.

Dated: May 29, 2012.

**Raphael W. Bostic,**

*Assistant Secretary for Policy Development and Research.*

## Appendix A

### List of Awardees for Grant Assistance Under the Fiscal Year 2012 Transformation Initiative: Choice Neighborhoods Demonstration Small Research Grants Program

1. Washington State Department of Social and Health Services (DSHS). Address: 1115 Washington Street SE., Olympia, WA 98504–5204. Principal Investigator: Martha Galvez. Grant: $198,027.

2. Portland State University (PSU). Address: PO Box 751, Portland, OR 97207–0751. Principal Investigator: Matthew Gebhardt. Grant: $76,948.

3. University of California—Berkeley (UC). Address: 2150 Shattuck Avenue, Suite 300, Berkeley, CA 94794–5940. Co-Principal Investigators: Karen Chapple, Jason Corburn, and Malo Hutson. Grant: $131,148.

4. International City/County Management Association (ICMA). Address: 777 North Capitol Street NE., Suite 500, Washington, DC 20002–4201. Principal Investigator: Ron Carlee. Grant: $93,877.

[FR Doc. 2012–13440 Filed 6–1–12; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

**AGENCY:** Office of the Secretary, Department of the Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of the Interior, Office of the Secretary is announcing a public meeting of the *Exxon Valdez* Oil Spill Public Advisory Committee.

**DATES:** July 9, 2012, at 10 a.m.

**ADDRESSES:** Glenn Olds Hall Conference Room, 4210 University Drive, Anchorage, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska 99501, (907) 271–5011.

**SUPPLEMENTARY INFORMATION:** The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will include discussions and recommendations on the Trustee Council's Fiscal Year 2013 annual budget and work plan.

Dated: May 29, 2012.

**Willie R. Taylor,**

*Director, Office of Environmental Policy and Compliance.*

[FR Doc. 2012–13380 Filed 6–1–12; 8:45 am]

BILLING CODE 4310–RG–P

## DEPARTMENT OF THE INTERIOR

### U.S. Geological Survey

### Call for Nominations to the National Geospatial Advisory Committee

**AGENCY:** U.S. Geological Survey, Interior.

**ACTION:** Call for Nominations.

**SUMMARY:** The Department of the Interior is seeking nominations to serve on the National Geospatial Advisory Committee (NGAC). The NGAC is a Federal Advisory Committee established under the authority of the Federal Advisory Committee Act (FACA). The Committee provides advice and recommendations to the Secretary of the Interior through the Federal Geographic Data Committee related to management of Federal geospatial programs, development of the National Spatial Data Infrastructure, and the implementation of Office of Management and Budget Circular A–16 and Executive Order 12906. The Committee reviews and comments upon geospatial policy and management issues and provides a forum for views of non-Federal stakeholders in the geospatial community.

**DATES:** Nominations to participate on this Committee must be received by July 19, 2012.

**ADDRESSES:** Send nominations electronically to *ngacnominations@fgdc.gov,* or by mail to John Mahoney, U.S. Geological Survey, U.S. Department of the Interior, 909 First Avenue, Suite 800, Seattle, WA 98104. Nominations may come from employers, associations, professional organizations, or other geospatial organizations and should include:

1. A nomination letter summarizing the nominee's qualifications and interest in Committee membership and describing the nominee's ability to represent a sector or stakeholder group.

2. A biographical sketch, resume, or vita.

3. One letter of reference and the names and contact information of two additional references.

4. Contact information for the nominee (name, title, organization, mailing address, email address, and phone number).

Additional information about the nomination process is posted on the NGAC Web page at *www.fgdc.gov/ngac.*

**FOR FURTHER INFORMATION CONTACT:** John Mahoney, USGS (206–220–4621).

**SUPPLEMENTARY INFORMATION:** The Committee conducts its operations in accordance with the provisions of FACA. It reports to the Secretary of the Interior through the Federal Geographic Data Committee (FGDC) and functions solely as an advisory body. The Committee provides recommendations and advice to the Department and the FGDC on policy and management issues related to the effective operation of Federal geospatial programs.

The NGAC includes up to 30 members, selected to generally achieve a balanced representation of the viewpoints of the various partners involved in national geospatial activities. NGAC members are appointed for staggered terms, and approximately 10 positions on the committee will be appointed during this round of appointments. Nominations will be reviewed by the FGDC and additional information may be requested from nominees. Final selection and appointment of committee members will be made by the Secretary of the Interior. Individuals who are currently federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils.

The Committee meets approximately 3–4 times per year. Committee members will serve without compensation, but travel and per diem costs will be provided by USGS. The USGS will also provide necessary support services to the Committee. Committee meetings are open to the public. Notice of committee meetings are published in the **Federal Register** at least 15 days before the date

of the meeting. The public will have an opportunity to provide input at these meetings.

Dated: May 23, 2012.

**Ivan DeLoatch,**

*Executive Director, Federal Geographic Data Committee.*

[FR Doc. 2012–13049 Filed 6–1–12; 8:45 am]

BILLING CODE 4311–AM–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMT926000–L19100000–BJ0000–LRCME1G04816]**

### Notice of Filing of Plats of Survey; North Dakota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on July 5, 2012.

**DATES:** Protests of the survey must be filed before July 5, 2012 to be considered.

**ADDRESSES:** Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

**FOR FURTHER INFORMATION CONTACT:** Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Regional Director, Bureau of Indian Affairs, Great Plains Region, Aberdeen, South Dakota, and was necessary to determine individual and tribal trust lands.

The lands we surveyed are:

**Fifth Principal Meridian, North Dakota**

T. 162 N., R. 70 W.

The plat, in five sheets, representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and the subdivision of section 24, Township 162 North, Range 70 West, Fifth Principal Meridian, North Dakota, was accepted May 16, 2012.

We will place a copy of the plat, in five sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in five sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in five sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

**Authority:** 43 U.S.C. Chap. 3.

**James D. Claflin,**

*Chief Cadastral Surveyor, Division of Resources.*

[FR Doc. 2012–13427 Filed 6–1–12; 8:45 am]

BILLING CODE 4310–DN–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMT926000–L14200000–BJ0000]**

### Notice of Filing of Plats of Survey; North Dakota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on July 5, 2012.

**DATES:** Protests of the survey must be filed before July 5, 2012 to be considered.

**ADDRESSES:** Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

**FOR FURTHER INFORMATION CONTACT:** Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Chief, Branch of Fluid Minerals, Bureau of Land Management, Montana State Office, Billings, Montana, and was necessary to determine Federal Leasable Mineral Lands.

The lands we surveyed are:

**Fifth Principal Meridian, North Dakota**

T. 148 N., R. 97 W.

The plat, in 11 sheets, representing the dependent resurvey of a portion of the 12th standard parallel, through Ranges 96 and 97 West, a portion of the south boundary, a portion of the subdivisional lines, and the adjusted original meanders of the former left and right banks of the Little Missouri River, through sections 3, 4, 9, 10, 15, 21, 22, 28, and 33, the subdivision of certain sections, and the survey of the meanders of the present left and right banks of the Little Missouri River, through sections 3, 4, 9, 10, 15, 21, 22, 27, 28, and 33, the limits of erosion in sections 3, 4, 9, 15, 21, and 22, the left and right banks and medial line of an abandoned channel of the Little Missouri River in sections 15 and 22, and certain division of accretion and partition lines, Township 148 North, Range 97 West, Fifth Principal Meridian, North Dakota, was accepted May 23, 2012. We will place a copy of the plat, in 11 sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in 11 sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in 11 sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

**Authority:** 43 U.S.C. Chap. 3.

**James D. Claflin,**

*Chief Cadastral Surveyor, Division of Resources.*

[FR Doc. 2012–13436 Filed 6–1–12; 8:45 am]

BILLING CODE 4310–DN–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMT926000–L19100000–BJ0000–LRCME1G04817]**

### Notice of Filing of Plats of Survey; North Dakota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on July 5, 2012.

**DATES:** Protests of the survey must be filed before July 5, 2012 to be considered.

**ADDRESSES:** Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

**FOR FURTHER INFORMATION CONTACT:** Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin _Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Regional Director, Bureau of Indian Affairs, Great Plains Region, Aberdeen, South Dakota, and was necessary to determine individual and tribal trust lands.

The lands we surveyed are:

**Fifth Principal Meridian, North Dakota**

T. 162 N., R. 70 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision of section 21, Township 162 North, Range 70 West, Fifth Principal Meridian, North Dakota, was accepted May 16, 2012. We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

**Authority:** 43 U.S.C. Chap. 3.

**James D. Claflin,**

*Chief Cadastral Surveyor, Division of Resources.*

[FR Doc. 2012–13432 Filed 6–1–12; 8:45 am]

**BILLING CODE 4310–DN–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCO956000 L14200000.BJ0000]**

### Notice of Correction to Filing of Plats, Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Correction, Colorado.

**SUMMARY:** On May 23, 2012, the Bureau of Land Management (BLM) published a Notice of Filing of Plats by the Colorado State Office, Lakewood, Colorado [77 FR 30550]. The plat and field notes of the dependent resurvey and survey in Township 48 North, Range 6 West, New Mexico Principal Meridian, Colorado, accepted May 3, 2012, was incorrectly listed as Range 68 West. This Notice of Correction is intended to correct this to Range 6 West.

**FOR FURTHER INFORMATION CONTACT:** Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856, or by mail: Randy Bloom, Chief Cadastral Surveyor for Colorado, BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

**Randy Bloom,**

*Chief Cadastral Surveyor for Colorado.*

[FR Doc. 2012–13441 Filed 6–1–12; 8:45 am]

**BILLING CODE 4310–JB–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10272: 2200–1100–665]**

### Notice of Intent To Repatriate Cultural Items: Tennessee Valley Authority and the University of Tennessee McClung Museum, Knoxville, TN

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Tennessee Valley Authority (TVA) and the University of Tennessee McClung Museum (McClung Museum), in consultation with the appropriate Indian tribes, have determined that the cultural items meet the definition of unassociated funerary objects, and repatriation to the Indian tribes identified below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated with the cultural items may contact the TVA and McClung Museum.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural items should contact the TVA at the address below by July 5, 2012.

**ADDRESSES:** Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT 11D, Knoxville, TN 37902–1401, telephone (865) 632–7458.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the TVA and in the custody of the McClung Museum that meet the definition of unassociated funerary objects under 25 U.S.C. 3001(3)(B).

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

**History and Description of the Cultural Items**

In the summer of 1965, 1 lot of unassociated funerary objects were removed from burial unit 8 at the Westmoreland-Barber site, 40MI11, in Marion County, TN. The Westmoreland-Barber site is located at river mile 429 on the Tennessee River. Archeological excavations at Westmoreland-Barber were stimulated by the TVA's construction of the Nickajack Dam and the impending inundation of the resulting reservoir. In August 1964, the University of Tennessee (UT) under the direction of J.B. Graham and under contract with the National Park Service (NPS), excavated sites located within the confines of the proposed Nickajack Reservoir, including site 40MI11. A second season of excavations by UT took place from June 29 to August 18, 1965, at the Westmoreland-Barber site, under a contract with the NPS. The excavation of burial units 5 through 17 took place after the TVA completed the process of purchasing the land tracts where the burial units are located.

One historic burial, burial unit 8, was excavated during the second season. Although disturbed by agricultural plowing, UT archaeologists concluded at the time that the individual in the burial was laid to rest around 1775 and the remains were likely associated with the historically known 18th century Cherokee Lower Town occupation in this area. The human remains from burial unit 8 are no longer present in the McClung Museum. As these remains are no longer in the possession of the TVA

or the McClung Museum, the funerary objects from burial unit 8 are now considered unassociated. These objects include 1 string of glass beads (approximately 329 beads), 1 string of tubular shell beads (approximately 39 beads), approximately 5 silver rings or spirals, approximately 6 silver cones or tinklers, 1 shell spoon, 40 ceramic sherds, 1 chert scraper, 5 utilized chert flakes, and 12 unutilized chert flakes.

**Determinations Made by the TVA and the McClung Museum**

Officials of the TVA and McClung Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), 1 lot of cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects above and the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and the United Keetowah Band of Cherokee Indians in Oklahoma (hereinafter referred to as ''The Tribes'').

**Additional Requestors and Disposition**

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT 11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, before July 5, 2012. Repatriation of the unassociated funerary objects to The Tribes may proceed after that date if no additional claimants come forward.

The TVA is responsible for notifying The Tribes that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13452 Filed 6–1–12; 8:45 am]

BILLING CODE 4310–70–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS–WASO–NAGPRA–10271; 2200–1100–665]

## Notice of Intent To Repatriate Cultural Items: Tennessee Valley Authority and the University of Tennessee McClung Museum, Knoxville, TN

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Tennessee Valley Authority (TVA) and the University of Tennessee McClung Museum (McClung Museum), in consultation with the appropriate Indian tribes, have determined that the cultural items meet the definition of unassociated funerary objects and repatriation to the Indian tribe identified below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated with the cultural items may contact the TVA and McClung Museum.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural items should contact the TVA and McClung Museum at the address below by July 5, 2012.

**ADDRESSES:** Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT 11D, Knoxville, TN 37902–1401, telephone (865) 632–7458.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the TVA and in the custody of the McClung Museum that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

**History and Description of the Cultural Item(s)**

On June 21, 1937 unassociated funerary objects were removed by archeologist from the University of Tennessee's Division of Anthropology on Hiwassee Island, site 40MG031, from burial unit 063MG001. No human remains were recovered from this burial unit. The unassociated funerary objects are 1 lot of approximately 150 glass trade beads, which were found in this badly disturbed burial unit. The TVA and the McClung Museum do not have control or possession of any human remains from this burial unit. Since excavation, the unassociated funerary objects have been curated at the McClung Museum at the University of Tennessee.

Hiwassee Island is located seven miles south of the town of Dayton, TN, and is approximately 29 miles upstream of the TVA's Chickamauga Dam. The archeologists were working under a ''Permit for Archeological Exploration'' between the landowner and the TVA, and the excavations were undertaken in connection with the TVA's construction of Chickamauga Dam and Reservoir. Details regarding the excavations and analysis can be found in *Hiwassee Island: An Archaeological Account of Four Tennessee Indian Peoples,* by Thomas M.N. Lewis and Madeline Kneberg, University of Tennessee Press, Knoxville, TN.

**Determinations Made by the TVA and McClung Museum**

Officials of the TVA and McClung Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 1 lot of cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects above and the Muscogee (Creek) Nation of Oklahoma.

**Additional Requestors and Disposition**

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT 11D, Knoxville, TN 37902–1401, telephone (865–632–7458), before July 5, 2012. Repatriation of the unassociated funerary objects to the Muscogee (Creek) Nation of Oklahoma may proceed after that date if no additional claimants come forward.

The TVA is responsible for notifying the Muscogee (Creek) Nation of Oklahoma that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13453 Filed 6–1–12; 8:45 am]

**BILLING CODE 4312–50–P**

## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NAGPRA–10270; 2200–1100–665]**

## Notice of Inventory Completion: Tennessee Valley Authority and the University of Tennessee McClung Museum, Knoxville, TN

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Tennessee Valley Authority (TVA) and the University of Tennessee McClung Museum (McClung Museum) have completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes, and have determined that there is a cultural affiliation between the human remains and associated funerary objects, and a present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the TVA and McClung Museum. Repatriation of the human remains and associated funerary objects to the Indian tribe stated below may occur if no additional claimants come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the TVA and McClung Museum at the address below by July 5, 2012.

**ADDRESSES:** Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT 11D, Knoxville, TN 37902–1401, telephone (865) 632–7458.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the TVA and in the custody of the McClung Museum, Knoxville, TN. The human remains and associated funerary objects were removed from the Hiwassee Island site in Meigs County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects, if applicable. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by the TVA and McClung Museum professional staff in consultation with representatives of the Absentee Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Eastern Band of Cherokee Indians, North Carolina; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Seminole Tribe of Florida; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma.

### History and Description of the Remains

Between April 23, 1937 and January 5, 1939, human remains representing, at minimum, 37 individuals were removed by archeologist from the University of Tennessee's Division of Anthropology on Hiwassee Island, site 40MG31. Hiwassee Island is located seven miles south of the town of Dayton, TN, and is approximately 29 miles upstream of the TVA's Chickamauga Dam. The archeologists were working under a ''Permit for Archeological Exploration'' between the landowner and the TVA, and the excavations were undertaken in connection with the TVA's construction of Chickamauga Dam and Reservoir. Details regarding the excavations and analysis can be found in *Hiwassee Island: An Archaeological Account of Four Tennessee Indian Peoples,* by Thomas M.N. Lewis and Madeline Kneberg, University of Tennessee Press, Knoxville, TN.

Since excavation, the human remains and associated funerary objects from site 40MG31 have been curated at the McClung Museum at the University of Tennessee. The human remains were removed from 32 burial units which date to the historic period. Other burial units were excavated at the site but are not included in this notice. No known individuals were identified. The 1 lot of associated funerary objects includes approximately 2,524 beads, 4 bells, approximately 17 clasps, 4 cones, 1 brass spoon, 1 iron snuff box, 3 worked shells, 1 shell gorget, 1 shell hairpin, 1 ceramic pot, iron wire, 1 lead shot, approximately 2 discoidals, copper wire, and 2 copper ornaments.

### Determinations Made by the TVA and McClung Museum

Officials of the TVA and McClung Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 37 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the approximately 2,564 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Muscogee (Creek) Nation of Oklahoma.

### Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT 11D, Knoxville, TN 37902–1401, telephone (865) 632–7458 before July 5, 2012. Repatriation of the human remains and associated funerary objects to the Muscogee (Creek) Nation of Oklahoma may proceed after that date if no additional claimants come forward.

The TVA is responsible for notifying the of the Absentee Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Eastern Band of Cherokee Indians, North Carolina; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Seminole Tribe of Florida; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13454 Filed 6–1–12; 8:45 am]

**BILLING CODE 4312–50–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10222; 2200–1100–665]**

### Notice of Inventory Completion: Department of Anthropology Museum at the University of California, Davis, Davis, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology Museum at the University of California, Davis, has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Department of Anthropology Museum at the University of California, Davis. Disposition of the human remains to the tribes stated below may occur if no additional requestors come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Department of Anthropology Museum at the University of California, Davis at the address below by July 5, 2012.

**ADDRESSES:** Lisa Deitz, Department of Anthropology Museum at the University of California, Davis, 330 Young Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8280.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Department of Anthropology Museum at the University of California, Davis. The human remains were removed from Lassen County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the Department of Anthropology Museum at the University of California, Davis, professional staff in consultation with representatives of the Alturas Indian Rancheria, California; Berry Creek Rancheria of Maidu Indians of California; Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Indian Colony of California; Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; Cedarville Rancheria, California; Confederated Tribes of the Warm Springs Reservation of Oregon; Enterprise Rancheria of Maidu Indians of California; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Greenville Rancheria of Maidu Indians of California; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pit River Tribe, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Redding Rancheria, California; Reno-Sparks Indian Colony, Nevada; Round Valley Indian Tribes of the Round Valley Reservation, California; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada.

#### History and Description of the Remains

In 1961, human remains representing, at minimum, two individuals were removed from Bare Cave (site CA–LAS–989), in Lassen County, CA, by the University of California, Davis, archeological field school. No known individuals were identified. No associated funerary objects are present.

#### Determinations Made by the Department of Anthropology Museum at the University of California, Davis

Officials of the Department of Anthropology Museum at the University of California, Davis have determined that:

- Based on archeological context, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the aboriginal land of the Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada.
- Multiple lines of evidence, including treaties, Acts of Congress, and Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Bridgeport Indian Colony of California; Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; Cedarville Rancheria, California; Confederated Tribes of the Warm Springs Reservation of Oregon; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada (hereafter referred to as ''The Tribes'').
- Other credible lines of evidence indicate that the land from which the Native American human remains were removed is the aboriginal land of The Tribes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to The Tribes.

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact Lisa Deitz, Department of Anthropology Museum at the University of California, Davis, 330 Young Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8280, before July 5, 2012. Disposition of the human remains to The Tribes may proceed after that date if no additional requestors come forward.

The Department of Anthropology Museum at the University of California, Davis is responsible for notifying the Alturas Indian Rancheria, California; Berry Creek Rancheria of Maidu Indians of California; Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Indian Colony of California; Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; Cedarville Rancheria, California; Confederated Tribes of the Warm Springs Reservation of Oregon; Enterprise Rancheria of Maidu Indians of California; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Greenville Rancheria of Maidu Indians of California; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pit River Tribe, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Redding Rancheria, California; Reno-Sparks Indian Colony, Nevada; Round Valley Indian Tribes of the Round Valley Reservation, California; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13456 Filed 6–1–12; 8:45 am]

**BILLING CODE 4312–50–P**

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## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NAGPRA–10221; 2200–1100–665]**

## Notice of Inventory Completion: University of Maine, Hudson Museum, Orono, ME

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The University of Maine, Hudson Museum has completed an inventory of human remains in consultation with the appropriate Indian tribes and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the University of Maine, Hudson Museum. Repatriation of the human remains to the Indian tribes stated below may occur if no additional claimants come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the University of Maine, Hudson Museum, at the address below by July 5, 2012.

**ADDRESSES:** Gretchen Faulkner, Director, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469–5746, telephone 207–581–1904.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the University of Maine, Hudson Museum. The human remains were removed from unknown sites in the state of Maine.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the University of Maine, Hudson Museum, professional staff in consultation with representatives of the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine.

**History and Description of the Remains**

In the late nineteenth and early twentieth centuries, human remains representing, at minimum, two individuals were removed from unknown sites in the state of Maine. The remains were a part of a collection loan to the University of Maine, Hudson Museum, by the former Portland Society of Natural History and subsequently donated to the University of Maine, Hudson Museum by the Maine Audubon Society. The human remains are identified at the University of Maine, Hudson Museum, as numbers 12 and 13. Number 12 is a mandible from a female, age 18–40, and number 13 is a mandible from a male, age 18–40. Number 13 is consistent with archaeological remains, while number 12 is not likely from an archaeological context. No known individuals were identified. No associated funerary objects are present.

All human remains in the possession of the University of Maine, Hudson Museum, were reviewed by forensic anthropologist Marcella Sorg, Ph.D., D–ABFA on July 16, 2002, who was assisted by former Hudson Museum Director Stephen Whittington, Lisa Hunter, and Kentra Gleuck. The resulting report indicates the minimum number of individuals, age, sex, ancestry, and provenience if available. The human remains represented by #12 and #13 were determined to be of Native American ancestry and have provenience to the ancestral territories of the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine.

**Determinations Made by the University of Main, Hudson Museum**

Officials of the University of Maine, Hudson Museum, have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains to the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine.

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains should contact Gretchen Faulkner, Director, University of Maine, Hudson Museum, 5746 Collins Center for the Arts, Orono, ME 04469–5746, telephone (207) 581–1904, before July 5, 2012. Repatriation of the human remains to the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine may proceed after that date if no additional claimants come forward.

The University of Maine, Hudson Museum is responsible for notifying the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13458 Filed 6–1–12; 8:45 am]

**BILLING CODE 4312–50–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10227; 2200–1100–665]**

### Notice of Inventory Completion: U.S. Department of the Interior, Indian Arts and Crafts Board, Museum of the Plains Indian, Browning, MT

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Museum of the Plains Indian, Indian Arts and Crafts Board, has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Museum of the Plains Indian, Indian Arts and Crafts Board. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Museum of the Plains Indian, Indian Arts and Crafts Board at the address below by July 5, 2012.

**ADDRESSES:** David Dragonfly, Museum Technician, Museum of the Plains Indian, P.O. Box 410, Browning, MT 59417, telephone (406) 338–2230.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Museum of the Plains Indian. The human remains were removed from an unknown location.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Indian Arts and Crafts Board's professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana; Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho; Crow Tribe of Montana; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Kalispel Indian Community of the Kalispel Reservation, Washington; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Nez Perce Tribe, Idaho (previously listed as Nez Perce Tribe of Idaho); Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Nation, Nebraska; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Standing Rock Sioux Tribe of North & South Dakota; and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota (hereinafter referred to as ''The Tribes'').

**History and Description of the Remains**

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location and through testing, were determined to be the remains of Native American ancestry. The human remains, a scalp lock attached to a lance, were likely acquired from Mrs. Madge Hardin Walters of San Diego, CA, by Mr. Earl Horter of Philadelphia, PA, and subsequently sold to the Bureau of Indian Affairs by Ms. Elizabeth Lentz Horter. The Bureau of Indian Affairs purchased these items in 1941 for its Museum of the Plains Indian. The Museum of the Plains Indian was transferred to the Indian Arts and Crafts Board in 1965. No known individuals were identified. No associated funerary objects are present.

**Determinations Made by the Indian Arts and Crafts Board**

Officials of the Indian Arts and Crafts Board have determined that:

• Based on the results of laboratory testing, the human remains are consistent with Native American origin.

• Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact David Dragonfly, Museum of the Plains Indian, P.O. Box 410, Browning, MT 59417, telephone (406) 338–2230, before July 5, 2012. Disposition of the human remains to The Tribes may proceed after that date if no additional requestors come forward.

The Indian Arts and Crafts Board is responsible for notifying The Tribes that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13462 Filed 6–1–12; 8:45 am]

**BILLING CODE 4312–50–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10130: 2200–1100–665]**

### Notice of Inventory Completion: Marine Corps Base Camp Pendleton, U.S. Marine Corps, San Diego County, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Marine Corps Base Camp Pendleton has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact Marine Corps Base Camp Pendleton. Repatriation of the human remains to the Indian tribes stated below may occur if no additional claimants come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the U.S. Marine Corps Base Camp Pendleton at the address below by July 5, 2012.

**ADDRESSES:** Danielle Page, Cultural Resources Branch Head and Base Archaeologist, AC/S Environmental Security, Marine Corps Base, Box 555008, Camp Pendleton, CA 92055–5008, telephone (760) 725–9738.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of Marine Corps Base (MCB) Camp Pendleton, U.S. Marine Corps, San Diego County, CA. The human remains were removed from the construction site of the San Onofre Nuclear Generating Station (SONGS) on MCB Camp Pendleton, San Diego County, California.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by MCB Camp Pendleton Environmental Security Cultural Resources Branch professional staff in consultation with representatives of the La Jolla Band of Luiseno Indians, California (formerly the La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation); Pala Band of Luiseno Mission Indians of the Pala Reservation, California; Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California; and the Soboba Band of Luiseno Indians, California (hereafter referred to as ''The Tribes''). Consultation was also conducted with representatives of non-Federally recognized Indian groups including the Juaneno Band of Mission Indians and the San Luis Rey Band of Mission Indians.

#### History and Description of the Remains

In the late 1960s or early 1970s, human remains representing, at minimum, three individuals were removed from a burial site by a Bechtel engineer, Mr. Brock, during the construction of the San Onofre Nuclear Generating Station (SONGS) at MCB Camp Pendleton. Bechtel relocated the human remains at the time of discovery, but they were subsequently removed by Mr. Brock during an engineering survey. Mr. Brock took the remains to his home, and after his death, his wife engaged a neighbor to return the remains to a local tribe. The neighbor contacted the Native American Heritage Commission who subsequently contacted Mr. David Belardes of the Juaneno Band of Mission Indians. Mr. Belardes turned over the remains to the MCB Camp Pendleton Cultural Resources Branch for proper disposition. On August 29, 2007, MCB Camp Pendleton took possession of the human remains. The remains include the cranium of a Native American male, age 18–25 years old, three cranial fragments, two mandible fragments, one pelvic fragment, one humerus fragment, and one femur fragment. No known individuals were identified. No associated funerary objects are present.

Based on the geographical location reported by Mr. Belardes and an examination of the remains during inventory these individuals have been identified as Native American. Consultation evidence presented by representatives of the Luiseno tribes identified adjacent sites in the northern coastal region of MCB Camp Pendleton as pre-contact gathering, occupation, and burial areas. Ethnographic sources and present archeological theory place the Luiseno tribes within this geographic area of San Diego County from about 2000 B.P. to the present-day. The geographical location within ethnographically recorded Luiseno tribal territory as well as the late time period archeologically associated with the Luiseno strongly affiliated the human remains with the Luiseno tribes.

#### Determinations Made by Marine Corps Base Camp Pendleton

Officials of the Marine Corps Base Camp Pendleton have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

#### Additional Requestors and Disposition

Representatives of any other Indian tribe that believes it may be culturally affiliated with the human remains should contact Danielle Page, Cultural Resources Branch Head and Base Archaeologist, AC/S Environmental Security, Marine Corps Base, Box 555008, Camp Pendleton, CA 92055–5008, telephone (760) 725–9738, before July 5, 2012. Repatriation of the human remains to the Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California, on behalf of The Tribes may proceed after that date if no additional claimants come forward.

Marine Corps Base Camp Pendleton is responsible for notifying The Tribes that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13461 Filed 6–1–12; 8:45 am]

**BILLING CODE 4312–50–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10216; 2200–1100–665]**

### Notice of Inventory Completion: The University of Alabama Museums, Tuscaloosa, AL

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The University of Alabama Museums has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes, and has

determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the museums. Repatriation of the human remains and associated funerary objects to the Indian tribes stated below may occur if no additional claimants come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the University of Alabama Museums at the address below by July 5, 2012.

**ADDRESSES:** Dr. Robert Clouse, Executive Director, University of Alabama Museums, Box 870340, Tuscaloosa, AL 35487, telephone (205) 348–7552.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Alabama Museums. The human remains and associated funerary objects were removed from the eight sites in Talladega, St. Clair, Cherokee, and Etowah counties in Alabama.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

## Consultation

A detailed assessment of the human remains was made by the University of Alabama Museums professional staff in consultation with representatives of the Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Mississippi Band of Choctaw Indians, Mississippi; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Thlopthlocco Tribal Town, Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

## History and Description of the Remains

In September 1969, human remains representing, at minimum, one individual (HRID 4473) were removed from the Williams site (1Ta200), in Talladega County, AL. The remains were exposed by a landowner bulldozing a road through a cotton field. University of Alabama professional staff removed the remains, which have since been curated at the University of Alabama Museums. No known individuals were identified. No associated funerary objects were documented as being present.

The mortuary practices exhibited by this burial are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the McKee Island and Childersburg series. The remains date to the 18th century and are associated historically with the Coosa-Abhika division of Creek towns. No artifacts of European manufacture were observed.

In 1948, human remains representing, at minimum, 13 individuals were removed from the Childersburg site, (1Ta1), in Talladega County, AL. These remains include skeletons 1–12 (HRID 3636–3647) as well as other human remains from the excavation of Unit 2 (HRID 4468). The Childersburg site was excavated by the Alabama Museum of Natural History to test the assertion by the United States De Soto Commission that this was the town of Coosa visited by De Soto. The remains and associated funerary objects have been curated at the University of Alabama since excavation. No known individuals were identified. The 58 associated funerary objects documented are 4 brass buckles/keepers, 1 lot of over 70 brass buttons, 1 lot of over 44 brass cones, 1 brass cylinder, 1 brass ring, 3 brass wire bracelets, 7 unidentified brass fragments, 1 copper and wood earring, 1 lot of more than 2,032 glass beads, 1 lot of more than 17 shell beads, 1 unidentified bead, 1 gun lock, 1 gun butt plate, 1 gun stock, 2 gun barrels, 1 brass ramrod support, 8 musket balls, 2 iron buckles, 1 iron handle, 1 iron hasp, 2 iron knife blades, 2 iron nails, 1 silver wire ring, 2 trade pipes, 1 lot of wood fragments with red paint, 1 aboriginal ceramic pipe, 1 pottery vessel fragment, 1 quartz crystal, 1 projectile point, 1 chipped scraper, 1 animal scapula hoe, 1 unmodified animal tooth, 1 unmodified deer scapula, 1 lot of charred nutshells, and 1 lot of unmodified quartz pebbles. The objects are fragmentary or lack complete data in the records. Some objects that appear in the inventory have not been found in the collections. These objects are 1 brass button, 1 brass cylinder, 3 unidentified brass fragments, 1 unidentified bead, 2 glass beads, 1 gun flint, 1 iron knife blade, 1 iron nail, 1 musket ball, 1 projectile point, 1 animal scapula hoe, 1 unmodified animal tooth, 1 unmodified deer scapula, 1 lot of charred nut shells, and 1 lot of unmodified quartz pebbles could not be located in the collections. Of the total collection, 40 associated funerary objects have been located and are available for repatriation.

The mortuary practices exhibited at Childersburg are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the McKee Island and Childersburg series. This human remains and associated funerary objects date to the 18th century and are associated historically with the Coosa-Abhika division of Creek towns. The associated European goods are consistent with this date.

In 1962, human remains representing, at minimum, 18 individuals were removed from the Woods Island site (1Sc40), in St. Clair County, AL. These remains include Burials 1–5, 8, 10–11, 13, 15–16, 24, 25, 33, 39–41, 44, and 46 (HRID 3649–3659, 3662, 3664, and 3667–3671). The Woods Island site was excavated by the University of Alabama under contract with Alabama Power Company during the construction of Lock 3 Reservoir, now H. Neeley Henry Lake. The site was encountered by construction crews during clearing for construction of Lock 3 Dam, which would be positioned across the island. The remains and associated funerary objects have been curated at the University of Alabama since excavation. No known individuals were identified. The 101 associated funerary objects documented include 1 lot of brass arm bands, 1 lot of brass beads, 19 brass bells, 1 lot of more than 40 brass bracelets, 1 lot of brass collars, 1 lot of about 27 brass cones, 3 brass disks, 1 brass spoon, 1 brass sword hilt and handle, 1 brass wrist band, 5 fragments of sheet brass, 1 chert abrader, 8 chert bifaces, 1 chert flake, 2 chert hammerstones, 15 chert projectile points, 1 chert scraper, 1 fragment of fabric with brass beads, 1 lot of about 26,000 glass beads, 1 glass biface, 1 unidentified gorget, 1 ground hematite, 7 gun flints, 1 iron axe, 1 iron buckle, 2 iron harpoons, 2 iron hoes, 6 iron knives, 3 iron nails, 1 iron pin, 2 iron scissors, 1 lead bead, 1 lot of ochre, 1 lot of pottery vessels, 1 quartzite anvilstone, 1 lot of silver buttons, 2 steatite pipes, and 1 trade pipe. The objects are fragmentary or lack complete data in the records. Some objects that appear in the inventory have not been

found in the collections. These objects are 1 brass bell, 2 brass bracelets, 1 iron buckle, 1 iron hoe, 1 iron nail, 1 iron pin, 1 lot of ocher, and 1 unidentified gorget. Of the total collection, 92 associated funerary objects have been located and are available for repatriation.

The mortuary practices exhibited at Woods Island are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the McKee Island series. The Woods Island ceramic assemblage dates to the period of the late 17th to the early 18th century. This site is considered to be directly related to the Childersburg series, which is associated historically with the 18th century Coosa-Abhika division of Creek towns. The associated European goods are consistent with this date.

In 1958, human remains representing, at minimum, 12 individuals were removed from the Bradford Ferry site, (1Ce73), in Cherokee County, AL. The remains were removed from nine known burials and three other locations (HRID 4453–4462, 4495–4496). The site was excavated by the University of Alabama under contract with the Alabama Power Company, Birmingham, AL. The excavations were conducted in conjunction with the creation of Weiss Lake, which would inundate the site. The remains and associated objects have been curated at the University of Alabama since excavation. No known individuals were identified. The 15 associated funerary objects documented as having been removed from the nine burials are 1 boat stone, 3 brass disks, 1 brass ear plug, 1 lot of brass and glass beads, 1 lot of glass beads, 2 iron objects (possible knife blade and breach plate), 2 chert projectile points, 1 lot of chert projectile points, 1 charred wooden object, 1 lot of pottery sherds, and 1 lot of ocher. One object that appears in the inventory has not been found in the collections. The object is the lot of chert projectile points. Of the total collection, 14 associated funerary objects have been located and are available for repatriation.

The mortuary practices exhibited at the Bradford Ferry site are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the Weiss-area McKee Island series. The Bradford Ferry site ceramic assemblage is dated to the early 17th century. The associated European goods are consistent with this date. This site is considered to be directly ancestral to Childersburg, which is historically associated with the 18th century Coosa-Abhika division of Creek towns.

In 1959, human remains representing, at minimum, six individuals (HRID 4463, 4493–4494, 4555–4556, 4559) were removed from the Seven Springs site, (1Ce101), in Cherokee County, AL. The site was excavated by the University of Alabama under contract with the Alabama Power Company, Birmingham, AL. The excavations were conducted in conjunction with the creation of Weiss Lake, which would inundate the site. The remains and associated objects have been curated at the University of Alabama since excavation. No known individuals were identified. The 11 associated funerary objects documented are 1 stone bead, 1 stone projectile point, 1 unidentified projectile point, 6 pottery sherds, 1 bone awl, and 1 turtle shell. Some objects that appear in the inventory have not been found in the collections. These objects are the stone bead and unidentified projectile point. Of the total collection, nine associated funerary objects have been located and are available for repatriation.

The mortuary practices exhibited at the Seven Springs site are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the Weiss-area McKee Island series. The Seven Springs site ceramic assemblage dates to the early 17th century. The European goods found elsewhere on the site are consistent with this date. This site is considered to be directly related to the Childersburg series, which is historically associated with the 18th century Coosa-Abhika division of Creek towns.

In 1947, human remains representing, at minimum, five individuals (HRID 3806–3809, 4805) were removed from the Milner site, (1Et1), in Etowah County, AL. In the spring of 1947, Mr. L. O. Milner of the Huff Sand and Coal Company reported that burials were being uncovered by heavy equipment. Personnel from the University of Alabama visited the site for two days in May and two days in August. During that time, four sets of remains were excavated. Mr. Milner provided a box of mixed remains and artifacts recovered by the steam shovel. Analysis of Mr. Milner's data and the excavations indicated that the human remains represent a minimum of five individuals. Many of the objects were subsequently returned to Mr. Milner and are in the possession of his heirs. The human remains and associated funerary objects have been curated at the University of Alabama since excavation. No known individuals were identified. The 67 associated funerary objects documented are 1 lot of glass beads, 2 brass arm bands, 8 brass bells with textile fragments attached, 1 brass collar, 4 brass cones, 1 iron ax, 1 iron knife, 2 iron pins, 3 stone pipes, 1 hammerstone, 1 abrading stone, 22 chert chunks, 3 chert flakes, 14 chert projectile points, 1 lump of galena, 1 occurrence of ocher, and 1 pebble. There are no clear records of which associated funerary objects were returned to Mr. Milner or retained by the University. Some objects that appear in the inventory have not been found in the collections. These objects are 1 lot of glass beads, 2 brass arm bands, 6 brass bells with textile fragments attached, 1 brass collar, 4 brass cones, 1 iron knife, 2 iron pins, 3 stone pipes, 1 hammerstone, 1 abrading stone, 22 chert chunks, 3 chert flakes, 14 chert projectile points, 1 lump of galena, 1 occurrence of ocher, and 1 pebble. Of the total collection, four associated funerary objects have been located and are available for repatriation.

The mortuary practices exhibited at the Milner site are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the McKee Island series. The Milner site ceramic assemblage dates to the mid 17th century. The associated European goods are consistent with this date. This site is considered to be directly related to the Childersburg series, which is historically associated with the 18th century Coosa-Abhika division of Creek towns.

In 1959, human remains representing, at minimum, two individuals (HRID 4469 and 4547) were removed from the Hurley site, (1Ce137), in Cherokee County, AL. The site was excavated by the University of Florida in conjunction with the University of Alabama excavations under contract with the Alabama Power Company, Birmingham, AL. The excavations were conducted in conjunction with the creation of Weiss Lake, which would inundate the site. The remains and associated objects were apparently taken to the University of Florida for a period of time but they were returned to the University of Alabama, probably in the 1960s. No known individuals were identified. The two associated funerary objects documented are 1 charred bark and 1 ocher. One object that appears in the inventory has not been found in the collections. The object is the ocher. Of the total collection, one associated funerary object has been located and is available for repatriation.

The mortuary practices exhibited at the Hurley site are consistent with known aboriginal practices. No temporally diagnostic artifacts were found with the remains, but the main reported components at the site are

Archaic and Protohistoric. These remains are presumed to be Protohistoric. Archeologists have associated the Hurley site with the other Weiss area historic sites. Occupation of these sites date to the early 17th century and are considered to be directly related to the Childersburg series, which is historically associated with the 18th century Coosa-Abhika division of Creek towns.

In 1958, human remains representing, at minimum, two individuals (HRID 4549–4550) were removed from the Gilmore Spring site, (1Ce173), in Cherokee County, AL. The site was excavated by the University of Alabama under contract with the Alabama Power Company, Birmingham, AL. The excavations were conducted in conjunction with the creation of Weiss Lake, which would inundate the site. The remains and associated objects have been curated at the University of Alabama since excavation. No known individuals were identified. The one associated funerary object documented is 1 lot of undecorated shell tempered pottery sherds, described in the field notes as a ''broken pot'' which has been located and is available for repatriation.

The mortuary practices exhibited at the Gilmore Spring site are consistent with known aboriginal practices. Pottery sherds from the site are attributable to the Weiss-area McKee Island series. The Gilmore Spring site ceramic assemblage dates to the early 17th century. This site is considered to be directly related to the Childersburg series, which is historically associated with the 18th century Coosa-Abhika division of Creek towns.

**Determinations Made by the University of Alabama Museums**

Officials of the University of Alabama Museums have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 59 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 161 objects described above that are accounted for in the collections are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains to the Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma (hereafter referred to as ''The Tribes'').

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Robert Clouse, Executive Director, University of Alabama Museums, Box 870340, Tuscaloosa, AL 35487, telephone (205) 348–7552, before July 5, 2012. Repatriation of the human remains and associated funerary objects to The Tribes may proceed after that date if no additional claimants come forward.

The University of Alabama Museums is responsible for notifying The Tribes and the Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Mississippi Band of Choctaw Indians, Mississippi; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13460 Filed 6–1–12; 8:45 am]

BILLING CODE 4312–50–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10172; 2200–1100–665]**

### Notice of Inventory Completion: U.S. Department of Agriculture, San Juan National Forest, Durango, CO, and University of Denver Department of Anthropology, Denver, CO; Correction

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the U.S. Department of Agriculture, San Juan National Forest, Durango, CO, and in the possession of the Bureau of Land Management, Anasazi Heritage Center, Dolores, CO. The human remains were removed from Dolores County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the Notice of Inventory Completion published by the U.S. Department of Agriculture, San Juan National Forest in the **Federal Register** (73 FR 49485–49486, August 21, 2008). The same human remains in this notice were the subject of two other notices published by the University of Denver Department of Anthropology in the **Federal Register** (66 FR 51472–51474, October 9, 2001, stating that the human remains were under the control of the University of Denver Department of Anthropology; and 73 FR 62533–62535, October 21, 2008, correcting the first notice and stating that the human remains were under the control of the San Juan National Forest). The U.S. Department of Agriculture, San Juan National Forest, in consultation with the appropriate Indian tribes, has determined that there is a cultural affiliation between the human remains and present-day Indian tribes. A detailed reassessment of the human remains was conducted by Bureau of Land Management, Anasazi Heritage Center staff, on behalf of the U.S. Department of Agriculture, San Juan National Forest, in consultation with the Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kewa Pueblo, New Mexico (formerly the Pueblo of Santo Domingo); Navajo Nation, Arizona, New Mexico, and Utah; Ohkay Owingeh, New Mexico (formerly Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico.

In the **Federal Register** (73 FR 49486, August 21, 2008), paragraph numbers 4–6 are corrected by substituting the following paragraphs:

At an unknown date, human remains representing, at minimum, one individual (catalog numbers DU6015 and DU6066) were collected from the Dove Creek area in Dolores County, CO, by an unknown person. In 1943, the remains were found in the office of Mr. Lee A. Brown, an employee of the U.S. Department of Agriculture, Forest Service, by Mr. Fred R. Johnson, also a Forest Service employee. The remains were donated by Mr. Johnson to Dr. E.B. Renaud of the University of Denver Department of Anthropology. No known individuals were identified. No associated funerary objects are present. Dr. Renaud, and laboratory assistant David DeHarport, analyzed the remains in 1943, and determined that they were Ancestral Puebloan based on the occipital deformation, tooth-wear, and reported origin from southwestern Colorado.

The U.S. Department of Agriculture, San Juan National Forest, has reviewed all available documentation relating to the human remains, including the research report prepared by the University of Denver Department of Anthropology and Museum of Anthropology for the original Notice of Inventory Completion published in the **Federal Register** (66 FR 51472–51474, October 9, 2001), and has concluded that the human remains were removed from a location in southwest Colorado extensively occupied by the Ancestral Puebloans for approximately 800 years. In conjunction with the original analysis and based on the preponderance of the evidence, the U.S. Department of Agriculture, San Juan National Forest has determined that there is a cultural affiliation between the human remains and present-day Indian tribes who are the descendants of the Ancestral Puebloans in southwestern Colorado.

**Determinations Made by the U.S. Department of Agriculture, San Juan National Forest**

Officials of the U.S. Department of Agriculture, San Juan National Forest have determined that:

- Pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico.

**Additional Requestors and Disposition**

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Julie Coleman, Heritage Program Manager, San Juan National Forest, 15 Burnett Ct., Durango, CO 81301, telephone (970) 385–1250 before July 5, 2012. Repatriation of the human remains to the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico, may proceed after that date if no additional claimants come forward.

The San Juan National Forest is responsible for notifying the Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kewa Pueblo, New Mexico (formerly the Pueblo of Santo Domingo); Navajo Nation, Arizona, New Mexico, and Utah; Ohkay Owingeh, New Mexico (formerly Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13459 Filed 6–1–12; 8:45 am]

BILLING CODE 4312–50–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10220; 2200–1100–665]**

### Notice of Inventory Completion: University of Maine, Hudson Museum, Orono, ME

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The University of Maine, Hudson Museum, has completed an inventory of human remains in consultation with the appropriate Indian tribes and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the University of Maine, Hudson Museum. Repatriation of the human remains to the Indian tribes stated below may occur if no additional claimants come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the University of Maine, Hudson Museum, at the address below by July 5, 2012.

**ADDRESSES:** Gretchen Faulkner, Director, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469–5746, telephone (207) 581–1904.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the University of Maine, Hudson Museum. The human remains were removed from unknown sites in the state of Maine.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the University of Maine, Hudson Museum, professional staff in consultation with representatives of the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine.

**History and Description of the Remains**

In the late nineteenth and early twentieth centuries, human remains representing, at minimum, three individuals were removed from unknown sites in the state of Maine. The remains were a part of a collection loan to the University of Maine, Hudson Museum, by the former Portland Society of Natural History and subsequently donated to the University of Maine, Hudson Museum, by the Maine Audubon Society. The human remains are identified at the University of Maine, Hudson Museum, as numbers 2, 11, and 16. Accession number AMUa2639 (#2) has provenience to the Portland Alms House which dates from A.D. 1803 to 1904. Accession number HM 5097 (#11) is from an unknown archaeological site. Number 16 is a cranium with no accession number and unknown provenience. No known individuals were identified. No associated funerary objects are present.

All human remains in the possession of the University of Maine, Hudson Museum, were reviewed by forensic anthropologist Marcella Sorg, Ph.D., D–ABFA on July 16, 2002, who was assisted by former Hudson Museum Director Stephen Whittington, Lisa Hunter, and Kentra Gleuck. The resulting report indicates the minimum number of individuals, age, sex, ancestry, and provenience if available. The human remains represented by #2, #11, and #16 were determined to be of Native American ancestry and have provenience to the ancestral territories of the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine.

**Determinations Made by the University of Maine, Hudson Museum**

Officials of the University of Maine, Hudson Museum, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine.

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains should contact Gretchen Faulkner, Director, University of Maine, Hudson Museum, 5746 Collins Center for the Arts, Orono, ME 04469–5746, telephone (207) 581–1904, before July 5, 2012. Repatriation of the human remains to the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine may proceed after that date if no additional claimants come forward.

The University of Maine, Hudson Museum, is responsible for notifying the Aroostook Band of Micmacs Indians of Maine, Houlton Band of Maliseet Indians of Maine, Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13457 Filed 6–1–12; 8:45 am]

BILLING CODE 4312–50–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10223; 2200–1100–665]**

### Notice of Inventory Completion: Department of Anthropology Museum at the University of California, Davis, Davis, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology Museum at the University of California, Davis, has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Department of Anthropology Museum at the University of California, Davis. Disposition of the human remains to the tribes stated below may occur if no additional requestors come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Department of Anthropology Museum at the University of California, Davis at the address below by July 5, 2012.

**ADDRESSES:** Lisa Deitz, Department of Anthropology Museum at the University of California, Davis, 330 Young Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8280.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Department of Anthropology Museum at the University of California, Davis. The human remains were removed from Lassen County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Department of Anthropology Museum at the University of California, Davis, professional staff in consultation with representatives of the Alturas Indian Rancheria, California; Berry Creek Rancheria of Maidu Indians of California; Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Indian Colony of California; Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; Cedarville Rancheria, California; Confederated Tribes of the Warm Springs Reservation of Oregon; Enterprise Rancheria of Maidu Indians of California; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Greenville Rancheria of Maidu Indians of California; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; Paiute-Shoshone Indians

of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pit River Tribe, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Redding Rancheria, California; Reno-Sparks Indian Colony, Nevada; Round Valley Indian Tribes of the Round Valley Reservation, California; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada.

**History and Description of the Remains**

In 1974, human remains representing, at minimum, one individual were removed from an unknown location in Lassen County, CA. To determine if the remains were related to a modern crime scene, the Police Department at the University of California at Davis brought the remains to the Department of Anthropology for analysis. Osteological analysis indicated that the remains exhibited Native American characteristics, and that they were at least 200 years old. The remains were subsequently donated to the Department of Anthropology Museum at the University of California, Davis, that same year. No known individuals were identified. No associated funerary objects are present.

**Determinations Made by the Department of Anthropology Museum at the University of California, Davis**

Officials of the Department of Anthropology Museum at the University of California, Davis have determined that:

- Based on physical characteristics, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Multiple lines of evidence, including treaties, Acts of Congress, and Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Berry Creek Rancheria of Maidu Indians of California; Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Indian Colony of California; Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; Cedarville Rancheria, California; Enterprise Rancheria of Maidu Indians of California; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Greenville Rancheria of Maidu Indians of California; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pit River Tribe, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada (hereafter referred to as ''The Tribes'').
- Other lines of evidence indicate that the land from which the Native American human remains were removed is the aboriginal land of The Tribes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to The Tribes.

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact Lisa Deitz, Department of Anthropology Museum at the University of California, Davis, 330 Young Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8280, before July 5, 2012. Disposition of the human remains to The Tribes may proceed after that date if no additional requestors come forward.

The Department of Anthropology Museum at the University of California, Davis is responsible for notifying the Alturas Indian Rancheria, California; Berry Creek Rancheria of Maidu Indians of California; Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Indian Colony of California; Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; Cedarville Rancheria, California; Confederated Tribes of the Warm Springs Reservation of Oregon; Enterprise Rancheria of Maidu Indians of California; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Greenville Rancheria of Maidu Indians of California; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pit River Tribe, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Redding Rancheria, California; Reno-Sparks Indian Colony, Nevada; Round Valley Indian Tribes of the Round Valley Reservation, California; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13455 Filed 6–1–12; 8:45 am]

BILLING CODE 4312–50–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–10247; 2200–1100–665]**

### Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Rio Grande National Forest, CO

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, Rio Grande National Forest, in cooperation with the U.S. Department of Interior, Bureau of Land Management, Anasazi Heritage Center, has completed an inventory of human remains in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Disposition of the human remains to the Indian tribe stated below may occur if no additional requestors come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Rio Grande National Forest at the address below by July 5, 2012.

**ADDRESSES:** Ms. Angie M. Krall, Heritage Program Manager, U.S. Department of Agriculture, Forest Service, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, CO 81144, telephone (719) 852–6242.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the U.S. Department of Agriculture, Forest Service, Rio Grande National Forest, and in the possession of the U.S. Department of Interior, Bureau of Land Management, Anasazi Heritage Center.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

In accordance with procedures detailed in a signed Native American Graves Protection and Repatriation Act Memorandum of Understanding between these tribes and Federal land management agencies within the San Luis Valley, CO, initial letters were sent to the following tribes requesting their attendance at a planned consultation meeting sponsored by the Rio Grande National Forest to be held on April 5, 2011. Tribes initially contacted by letter included: the Jicarilla Apache Nation, New Mexico; Navajo Nation of Arizona, New Mexico and Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and the Zuni Tribe of the Zuni Reservation, New Mexico.

The Rio Grande National Forest professional staff, prior to this initial contact and consultation, made an assessment of the subject human remains with assistance from analyses by Colorado College Department of Anthropology, Colorado Springs, CO. Additional assessment was made in a consultation meeting held with the following tribes in Delores, CO, on April 5, 2011: The Jicarilla Apache Nation, New Mexico; Navajo Nation of Arizona, New Mexico and Utah; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Southern Ute Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

The consulting tribes were provided reports at this meeting giving detailed descriptions of the human remains, their discovery and condition, as well as the agency offices in possession and custody of the remains. All representatives of the tribes present requested that the Forest Service follow the procedures for repatriation outlined in the interagency/intertribal Memorandum of Understanding (MOU) mentioned above. This MOU was signed by governmental officials from all of the above listed tribes, and the Bureau of Land Management (San Luis Public Lands Center), National Park Service (Great Sand Dunes National Park and Preserve), U.S. Fish and Wildlife Service (Alamosa/Monte Vista and Baca National Wildlife Refuges), and the U.S. Forest Service (Rio Grande National Forest). The consultation meeting resulted in a consensus that the human remains listed in this notice maintain their status as culturally unidentifiable, and they be repatriated to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

#### History and Description of the Remains

Between 1950 and 2000, human remains were removed from various locations on U.S. Forest Service lands in southern Colorado and subsequently stored at the U.S. Department of Interior, Bureau of Land Management, Anasazi Heritage Center, in southern Colorado. No known individuals were identified. No associated funerary objects were present.

In 1985, human remains representing, at minimum, one individual were excavated from Cotton Creek, in Saguache County, CO. The remains are a cranial calotte consisting of the cranial vault but missing the facial skeleton and cranial base (catalogue # 5SH1047–01). Additional remains associated with this burial are seven human bone fragments, including: A right temporal bone fragment (5SH1047–02); a right temporal bone fragment containing the middle and inner ear (5SH1047–03); a left temporal bone fragment, petrous portion (5SH1047–04); a sphenoid fragment (5SH1047–05); a right temporal fragment (5SH1047–06) (fits with 5SH1047–02); a possible anterior wall of an external auditory meatus (5SH1047–07); and one unidentified bone fragment (5SH1047–08). Cotton Creek drains the high peak areas of the Sangre de Cristo Mountains and flows into the San Luis Valley, and the remains were found eroding out of a bank between a road and a beaver pond in the Saguache Ranger District, on lands of the U.S. Department of Agriculture, Forest Service, Rio Grande National Forest. The remains were found by a member of a Student Conservation Corps work crew in the beaver pond near a foot trail and were removed by the Saguache Country Sheriff soon after discovery. The remains likely date to the late prehistoric or early historic period. At the time of discovery, the remains were tentatively classified as Native American due to the complex cranial suture patterns and the slight sagittal keeling of the vault.

On March 5, 1990, human remains representing, at minimum, one individual (catalogue # LB–90–01) were

part of a private donation to the U.S. Department of Agriculture, Forest Service, Rio Grande National Forest. The remains were in the possession of a private collector 20 years prior to the donation. The original site of discovery is unknown. The remains consist of a nearly complete cranium plus two right parietal fragments that have been glued together. The entire cranium has been shellacked or varnished. The postero-inferior vault is darkly stained, indicative of having been in the ground. The remainder of the skull is bleached indicating exposure to the sun and elements, and weathering cracks are present in exposed areas. Four maxillary teeth are present plus one root fragment. Following examination, the remains were determined to be from an adult male, 30–40 years of age. Cultural affiliation and age of the remains could not be determined. The remains were determined to be Native American based on cranial morphology and the degree of dental attrition.

In 1994, human remains representing, at minimum, one individual (catalogue # NA–94–A) was located by private citizens in Del Norte, in Saguache County, on the Rio Grande National Forest, CO. The private citizens found the remains in a secondary burial in a shallow recent gravesite in the foothills of Del Norte, CO. The discovery was reported to the Saguache County Sheriff's Department and the remains were removed by sheriff's representatives. The condition of the remains strongly suggests that the remains were coated with undetermined materials and used as a display for unknown purposes. The remains included a nearly complete cranium, mandible, and complete left humerus, left and right radii, right femur, left and right tibiae, right fibula, and several thoracic vertebrae. The remains are those of an adult male, over 40 years of age at the time of death. Cultural affiliation and age of the remains could not be determined. Based on cranial and dental morphology the remains were determined to be Native American.

In 1997, human remains representing, at minimum, one individual (catalogue #2130 (07/03/96)) were turned over to the Rio Grande National Forest by the Saguache County Sheriff's Department. No details were provided on date or location of removal, and the remains were found on ''a shelf in the East Storage Building'' in the town of Saguache. The remains consist of a cranial calotte (or calva) consisting of the cranial vault but missing the facial skeleton and cranial base. No teeth were present. A moderate degree of polish is evident over the entire skull. Partial closure of sutures and the general small size of the cranial vault indicates the remains are of a sub-adult adolescent. A flattening of the lower occipital is noted, possibly from the use of a cradleboard, indicating Native American ancestry.

**Determinations Made by the U.S. Department of Agriculture, Forest Service, Rio Grande National Forest**

Officials of the U.S. Department of Agriculture, Forest Service, Rio Grande National Forest have determined that:

- Based on two analyses of the human remains by the Department of Anthropology, Colorado College, Colorado Springs, CO, in 1986 and 1994, the human remains are determined to be Native American.
- Pursuant to 25 U.S.C. 3001(2) and based on the analyses and as a result of consultation, a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission and other lines of evidence, the lands from which the Native American human remains were removed is the aboriginal land of the Jicarilla Apache Nation, New Mexico; Navajo Nation of Arizona, New Mexico and Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of San Ildefonso, New Mexico; Southern Ute Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and the Zuni Tribe of the Zuni Reservation, New Mexico.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

**Additional Requestors and Disposition**

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact Ms. Angie M. Krall, Heritage Program Manager, U.S. Department of Agriculture, Forest Service, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, CO 81144, telephone (719) 852–6242 before July 5, 2012. Disposition of the human remains to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed after that date if no additional requestors come forward.

The U.S. Department of Agriculture, Forest Service, Rio Grande National Forest is responsible for notifying the Jicarilla Apache Nation, New Mexico; Navajo Nation of Arizona, New Mexico and Utah; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Southern Ute Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah that this notice has been published.

Dated: May 30, 2012.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. 2012–13451 Filed 6–1–12; 8:45 am]

BILLING CODE 4312–50–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

### Geological and Geophysical Exploration on the Atlantic Outer Continental Shelf; Draft Programmatic Environmental Impact Statement

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** This notice is published pursuant to the regulations implementing the provisions of the National Environmental Policy Act (NEPA). BOEM has prepared a Draft Programmatic Environmental Impact Statement (PEIS) to evaluate potential environmental effects of multiple Geological and Geophysical (G&G) activities on the Mid and South Atlantic Planning Areas of the Outer Continental Shelf (OCS). These activities include, but are not limited to, seismic surveys, sidescan-sonar surveys, electromagnetic surveys, geological and geochemical sampling, and remote sensing. The Draft PEIS considers G&G activities for the three program areas managed by BOEM: oil and gas exploration and development; renewable energy; and marine minerals. BOEM is extending the comment period for this Draft PEIS.

**DATES:** Comments on this Draft PEIS will now be accepted until July 2, 2012.

**ADDRESSES:** If you wish to comment, you may submit your written comments by these methods. Written comments should be enclosed in an envelope

labeled ''Comments on the Draft PEIS for Atlantic G&G Activities'' and mailed (or hand carried) to Mr. Gary D. Goeke, Chief, Regional Assessment Section, Office of Environment (MS 5410), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Comments by email should be sent to: *GGEIS@boem.gov*. See **SUPPLEMENTARY INFORMATION** section for information on submitting comments via the internet and the public disclosure of commenter's names and addresses.

**FOR FURTHER INFORMATION CONTACT:** For more information on the Draft PEIS, you may contact Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5410), New Orleans, Louisiana 70123–2394. You may also contact Mr. Goeke by telephone at (504) 736–3233.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to the regulations (40 CFR 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)).

The Draft PEIS considers G&G activities for the three program areas managed by BOEM: (1) Oil and gas exploration and development; (2) renewable energy; and (3) marine minerals. A Notice of Availability for the Draft PEIS was published in the **Federal Register** on March 30, 2012 (see 77 FR 19321) opening a 60-day comment period originally scheduled to close on May 30, 2012. BOEM has now decided to extend the comment period for this draft PEIS until July 2, 2012.

To obtain a single printed or CD–ROM copy of the Draft PEIS, you may contact the BOEM, Gulf of Mexico OCS Region, Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). An electronic copy of the Draft PEIS is available at the BOEM's Internet Web site at *http://www.boem.gov/Oil-and-Gas-Energy-Program/GOMR/GandG.aspx*. Several libraries in Atlantic coastal states have also been sent copies of the Draft PEIS (CDs or hard copy; according to their preference and their selection criteria for receipt of government documents). To find out the libraries having copies of the Draft PEIS for review, you may contact the BOEM's Public Information Office at the number provided above.

*Public Disclosure of Names and Addresses:* Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: May 29, 2012.

**Tommy P. Beaudreau,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2012–13403 Filed 5–30–12; 11:15 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

**[Docket No. 2898]**

### Certain Electronic Imaging Devices Corrected: Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Imaging Devices,* DN 2898; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of FlashPoint Technology, Inc. on May 23, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic imaging devices. The complaint names as respondents HTC Corporation of Taiwan; HTC America, Inc. of WA; Pantech Co., Ltd. of Korea; Pantech Wireless, Inc. of GA; Future Wei Technologies, Inc., (d/b/a Huawei Technologies (USA)) of TX; ZTE Corporation of China; ZTE (USA) Inc. of TX; and Huawei Technologies Co., Ltd. of China.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of

publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2898'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 30, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–13434 Filed 6–1–12; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–769]**

## Certain Handheld Electronic Computing Devices, Related Software, and Components Thereof; Termination of the Investigation Based on Settlement and Partial Withdrawal of the Complaint

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (''IDs'') (Order Nos. 40 and 41) of the presiding administrative law judge (''ALJ'') terminating the above-captioned investigation as to one remaining respondent Inventec Corporation (''Inventec'') of Taipei County, Taiwan based on partial withdrawal of the complaint, and as to the other remaining respondents Barnes & Noble, Inc. and barnesandnoble.com, LLC (collectively, ''Barnes & Noble''), both of New York, New York, based on a settlement agreement.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on April 25, 2011, based on a complaint filed by Microsoft Corporation (''Microsoft'') of Redmond, Washington. 76 FR 22918. The complaint, as amended, alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handheld electronic computing devices, related software, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,778,372 (''the '372 patent''); 5,889,522 (''the '522 patent''); 6,339,780 (''the '780 patent''); 6,891,551 (''the '551 patent''); and 6,957,233 (''the '233 patent''). The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named several respondents including: Hon Hai Precision Industry Co., Ltd. and Foxconn Electronics, Inc., both of Tucheng City, Taiwan; Foxconn Precision Component (Shenzhen) Co., Ltd. of Shenzhen, China; and Foxconn International Holdings Ltd. of Kowloon, Hong Kong (collectively, ''the Foxconn/Hon Hai respondents''); Barnes & Noble; and Inventec.

On December 15, 2011, the Commission issued notice of its determination not to review the ALJ's ID granting Microsoft's motion to terminate the investigation as to the Foxxconn/Hon Hai respondents based upon withdrawal of all allegations as to these respondents. On February 14, 2012, the Commission issued notice of its determination not to review the ALJ's ID granting Microsoft's motion to terminate the investigation as to claims 1–6, 9–14, 17–26, and 29–42 of the '780 patent (terminating this patent from the investigation); claims 7, 9, and 11 of the '551 patent; claim 21 of the '233 patent; claims 1 and 2 of the '522 patent; and claim 1 of the '372 patent, based on withdrawal of these asserted claims. Also, on March 2 and 7, 2012, respectively, the Commission issued notice of its determinations not to review the ALJ's IDs granting Microsoft's motion for summary determination as to Barnes & Noble's patent misuse defense, and for summary determination as to the economic prong of the domestic industry requirement.

On May 1, 2012, Microsoft moved to terminate the investigation as to Inventec based upon withdrawal of all allegations as to this respondent. Separately, Microsoft and Barnes & Noble jointly moved to terminate the investigation as to the remaining respondents Barnes & Noble based on a settlement agreement. The Commission investigative attorney filed responses in support of each motion.

On May 11, 2012, the ALJ issued an ID granting Microsoft's motion for termination of the investigation as to Inventec and a separate ID granting the joint motion for termination of the remaining respondents Barnes & Noble based on a settlement agreement. He found that both motions satisfied Commission rule 210.21 and that the joint motion for termination based on a settlement agreement was not contrary to the public interest in accordance with Commission rule 210.50(b)(2). No party petitioned for review of the IDs. The Commission has determined not to review the IDs, and has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.21 and 210.42(h) of the

Commission's Rules of Practice and Procedure, 19 CFR 210.21, 210.42(h).

By order of the Commission.

Issued: May 29, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–13364 Filed 6–1–12; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–844]**

## Certain Drill Bits and Products Containing the Same; Institution of Investigation Pursuant to 19 U.S.C. 1337

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 25, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Boart Longyear Company of South Jordan, Utah and Longyear TM, Inc. of South Jordan, Utah. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain drill bits and products containing the same by reason of infringement of certain claims of U.S. Patent No. 7,828,090 (''the '090 patent''); U.S. Patent No. 7,874,384 (''the '384 patent''); and U.S. Patent No. 8,051,929 (''the '929 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

**FOR FURTHER INFORMATION CONTACT:** The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on May 25, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain drill bits and products containing the same that infringe one or more of claims 1–9 and 12–20 of the '090 patent; claims 8–10 and 12–16 of the '384 patent; and claims 1, 2, 6–11, 13–16, 19, and 20 of the '929 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Boart Longyear Company, 10808 S. River Front Parkway, Suite 600, South Jordan, UT 84095;

Longyear TM, Inc., 10808 S. River Front Parkway, Suite 600, South Jordan, UT 84095.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Boyles Bros Diamantina S.A., Av. Santa Ana 180–186 Ate, Lima, Peru;

Christensen Chile S.A., Lo Campino 432, Quilicura, Santiago, Chile;

Diamantina Christensen Trading Inc., Edificio AFRA, AV. Samuel Lewis y Calle 54, Panama; and

Intermountain Drilling Supply Corp., 3412 West 2400 South, West Valley City, UT 84111.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Commission notes that issues regarding whether the importation requirement of section 337 is met may be present here. In instituting this investigation, the Commission has not made any determination as to whether Complainants have satisfied this requirement. Accordingly, the presiding administrative law judge may wish to consider this issue at an early date. Any such decision should be issued in the form of an initial determination (ID) Rule 210.42(c), 19 CFR 210.42(c). The ID will become the Commission's final determination 45 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44 and 210.45, 19 CFR 210.43, 210.44, and 210.45.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 29, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012–13390 Filed 6–1–12; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–891 (Second Review)]**

### Foundry Coke From China

**Determination**

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

**Background**

The Commission instituted this review on December 1, 2011 (76 FR 74810) and determined on March 5, 2012 that it would conduct an expedited review (77 FR 15123, March 14, 2012).

The Commission transmitted its determination in this review to the Secretary of Commerce on May 29, 2012. The views of the Commission are contained in USITC Publication 4326 (May 2012), entitled *Foundry Coke from China: Investigation No. 731–TA–891 (Second Review).*

By order of the Commission.

Issued: May 30, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–13438 Filed 6–1–12; 8:45 am]

**BILLING CODE 7020–02–P**

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–860 (Second Review)]**

### Tin- and Chromium-Coated Steel Sheet From Japan

**Determination**

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on tin- and chromium-coated steel sheet from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

**Background**

The Commission instituted this review on June 1, 2011 (76 FR 31633) and determined on September 6, 2012, that it would conduct a full review (76 FR 58536, September 21, 2011). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 9, 2011 (76 FR 77013). The hearing was held in Washington, DC, on April 11, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on May 25, 2012. The views of the Commission are contained in USITC Publication 4325 (May 2012), entitled *Tin- and Chromium-Coated Steel Sheet from Japan: Investigation No. 731–TA–860* (*Second Review*).

By order of the Commission.

Issued: May 29, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012–13391 Filed 6–1–12; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[Docket No. OTJ 103]**

### Solicitation of Comments on Request for United States Assumption of Concurrent Federal Criminal Jurisdiction; Elk Valley Rancheria

**AGENCY:** Office of Tribal Justice, Department of Justice.

**ACTION:** Notice.

**SUMMARY:** This notice solicits public comments on the Request for United States Assumption of Concurrent Federal Criminal Jurisdiction recently submitted to the Office of Tribal Justice, Department of Justice by the Elk Valley Rancheria pursuant to the provisions of 28 CFR 50.25.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before July 19, 2012. Comments received by mail will be considered timely if they are postmarked on or before that date. The electronic Federal Docket Management System (FDMS) will accept comments until Midnight Eastern Time at the end of that day.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or Hand Delivery/Courier:* submit written comments via regular or express mail to Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue NW., Room 2310, Washington, DC 20530.
- *Fax:* submit comments to the attention of Mr. Tracy Toulou, Office of Tribal Justice, Department of Justice, (202) 514–9078 (not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Please contact Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, at (202) 514–8812 (not a toll-free number). To ensure proper handling of comments, please reference ''Docket No. OTJ 103'' on all electronic and written correspondence. The Department encourages all comments be submitted electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of the request for United States assumption of concurrent federal criminal jurisdiction submitted by the Elk Valley Rancheria is also available at the *http://www.regulations.gov* Web site for easy reference. Paper comments that duplicate the electronic submission are not necessary as all comments submitted to *http://www.regulations.gov* will be posted for public review and are part of the official docket record.

**SUPPLEMENTARY INFORMATION:**

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

You are not required to submit personal identifying information in order to comment on this rule. Nevertheless, if you want to submit personal identifying information (such as your name and address) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You also must locate all the personal identifying information you do not want posted online in the first paragraph of your comment and

identify what information you want redacted.

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

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the paragraph above entitled **FOR FURTHER INFORMATION CONTACT.**

**Statutory Background**

For more than two centuries, the Federal Government has recognized Indian tribes as domestic sovereigns that have unique government-to-government relationships with the United States. Congress has broad authority to legislate with respect to Indian tribes, however, and has exercised this authority to establish a complex jurisdictional scheme for the prosecution of crimes committed in Indian country. (The term ''Indian country'' is defined in 18 U.S.C. 1151.) Criminal jurisdiction in Indian country typically depends on several factors, including the nature of the crime; whether the alleged offender, the victim, or both are Indian; and whether a treaty, Federal statute, executive order, or judicial decision has conferred jurisdiction on a particular government.

The Tribal Law and Order Act (TLOA) was enacted on July 29, 2010, as Title II of Public Law 111–211. The purpose of the TLOA is to help the Federal Government and tribal governments better address the unique public-safety challenges that confront tribal communities. Section 221(b) of the new law, now codified at 18 U.S.C. 1162(d), permits an Indian tribe with Indian country subject to State criminal jurisdiction under Public Law 280, Public Law 83–280, 67 Stat. 588 (1953) to request that the United States accept concurrent jurisdiction to prosecute violations of the General Crimes Act and the Major Crimes Act within that tribe's Indian country.

**Department of Justice Regulation Implementing 18 U.S.C. 1162(d)**

On December 6, 2011, 76 FR 76037 the Department published final regulations that established the framework and procedures for a mandatory Public Law 280 tribe to request the assumption of concurrent Federal criminal jurisdiction within the Indian country of the tribe that is subject to Public Law 280. 28 CFR 50.25. Among other provisions, the regulations provide that upon receipt of a tribal request the Office of Tribal Justice shall publish a notice in the **Federal Register** seeking comments from the general public.

**Request by the Elk Valley Rancheria**

By a request dated March 9, 2012, the Elk Valley Rancheria located in the State of California requested the United States to assume concurrent Federal jurisdiction to prosecute violations of 18 U.S.C. 1152 (the General Crimes, or Indian Country Crimes, Act) and 18 U.S.C. 1153 (the Major Crimes Act) within the Indian country of the tribe. This would allow the United States to assume concurrent criminal jurisdiction over offenses within the Indian country of the tribe without eliminating or affecting the State's existing criminal jurisdiction.

**Solicitation of Comments**

This notice solicits public comments on the above request.

Dated: May 30, 2012.

**Tracy Toulou,**

*Director, Office of Tribal Justice.*

[FR Doc. 2012–13448 Filed 6–1–12; 8:45 am]

BILLING CODE 4410–A5–P

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP (OJP) Docket No. 1592]**

### Meeting of the Office of Justice Programs' Science Advisory Board

**AGENCY:** Office of Justice Programs (OJP), Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a forthcoming meeting of OJP's Science Advisory Board (''Board''). *General Function of the Board:* The Board is chartered to provide OJP, a component of the Department of Justice, with valuable advice in the areas of science and statistics for the purpose of enhancing the overall impact and performance of its programs and activities in criminal and juvenile justice. To this end, the Board has designated six (6) subcommittees: National Institute of Justice (NIJ); Bureau of Justice Statistics (BJS); Office of Juvenile Justice and Delinquency Prevention (OJJDP); Bureau of Justice Assistance; Quality and Protection of Science; and Evidence Translation/Integration.

**DATES:** The meeting will take place on Thursday, June 21, 2012, from 8:30 a.m. to 4 p.m., ET, with a break for lunch at approximately noon.

**ADDRESSES:** The meeting will take place in the Video Conference Room on the third floor of the Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531.

**FOR FURTHER INFORMATION CONTACT:** Marlene Beckman, Designated Federal Officer (DFO), Office of the Assistant Attorney General, Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531; Phone: (202) 616–3562 **Note:** this is not a toll-free number]; Email: *marlene.beckman@usdoj.gov.*

**SUPPLEMENTARY INFORMATION:** This meeting is being convened to brief the OJP Assistant Attorney General and the Board members on the progress of the subcommittees, and discuss any recommendations they may have for consideration by the full SAB. The final agenda is subject to adjustment, but it is anticipated that there will be a morning session and an afternoon session, with a break for lunch. These sessions will likely include briefings of the subcommittees' activities and discussion of future SAB actions and priorities.

This meeting is open to the public. Members of the public who wish to attend this meeting must register with Marlene Beckman at the above address at least seven (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. Persons interested in communicating with the Board should submit their written comments to the DFO, as the time available will not allow the public to directly address the Board at the meeting. Anyone requiring special accommodations should notify Ms. Beckman at least seven (7) days in advance of the meeting.

May 29, 2012.

**Marlene Beckman,**

*Counsel and SAB DFO, Office of the Assistant Attorney General, Office of Justice Programs.*

[FR Doc. 2012–13389 Filed 6–1–12; 8:45 am]

BILLING CODE 4410–18–P

## DEPARTMENT OF JUSTICE

### National Institute of Corrections

### Solicitation for a Cooperative Agreement: Resources for NIC's Web Site on Data Collection and Analysis in Corrections

**AGENCY:** National Institute of Corrections, U.S. Department of Justice.

**ACTION:** Solicitation for a cooperative agreement.

**SUMMARY:** The National Institute of Corrections (NIC) is seeking applications for the development of resources for NIC's Web site on data collection and analysis for corrections. The resource materials will include, but are not limited to, documents or other information sources (i.e. spreadsheets, Web sites) that provide examples of policy and procedure governing information management; information on effective practices in developing or acquiring automated information management systems; and an overview of current information technology in corrections. NIC currently has some content under development on its Web site at *http://nicic.gov/informationtechnolgy.*

The Web site resources will also include small data applications that provide users the capability for data analysis and interpretation and short tutorials on how to download and use the applications provided. The Web site applications, after initial development, deployment, and testing, will be maintained by NIC.

The project will be for a 12-month period and will be carried out in conjunction with the NIC Jails Division who will confer as needed with Prisons and Community Corrections Services Division staff. The awardee will work closely with NIC staff on all aspects of the project. To be considered, the applicant team collectively must have, at a minimum, (1) in-depth knowledge of the purpose, functions, and operational complexities of corrections (2) in-depth knowledge of the full range of decisions corrections administrators must make to manage corrections populations/clients and operations, (3) in-depth knowledge of the types of data needed to inform these decisions, (4) expertise and experience in identifying, collecting, and analyzing these data, (5) expertise and experience in developing and managing information systems, (6) experience in developing Web page content, development of statistical and assessment applications using standard html and java script, asp.net and Excel, and development of tutorials or other ''how-to'' resources that support the developed applications; and (7) demonstrated ability to research materials in support of this type of project.

All resource products developed must comply with Section 508 Standards for Accessibility. (*http://section508.gov*).

**DATES:** Applications must be received by 4 p.m. (EDT) on Friday, June 29, 2012.

**ADDRESSES:** Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date as mail at NIC is sometimes delayed due to security screening.

Applicants who wish to hand deliver their applications should bring them to 500 First Street NW., Washington, DC 20534, and dial 202–307–3106, ext. 0, at the front desk for pickup.

Faxed or emailed applications will not be accepted; however, electronic applications can be submitted via *http://www.grants.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of this announcement and the required application forms can be downloaded from the NIC Web site at *www.nicic.gov/cooperativeagreements.*

Questions about this project and the application procedures should be directed to Erika McDuffe, Program Specialist, NIC Jails Division. Questions must be sent via email to Ms. McDuffe at *emcduffe@bop.gov.* Ms. McDuffe will respond via email to the individual. Also, all questions and responses will be posted on NIC's Web site at *www.nicic.gov* for public review. (The names of those submitting the questions will not be posted.) The Web site will be updated regularly and postings will remain on the Web site until the closing date of this cooperative agreement solicitation.

**SUPPLEMENTARY INFORMATION:**

*Background:* Local corrections facilities vary widely in size, geographic location, funding levels, operational philosophy, and design. Nonetheless, most corrections administrators make the same types of decisions critical to their operations, the safety and security of inmates/offenders and staff, and the responsible use of resources. For example, corrections administrators must make decisions related to: Resource needs; budget projections and requests; inmate/client population management (types and numbers of inmates/clients housed/enrolled, length of stay, average daily population); staffing levels, and; corrections activities and programs. It is not uncommon, however, for these and other decisions to be made in the absence of key data. Many corrections agencies do not have staff dedicated to data collection and analysis, information system management, or information technology. Given that many corrections agencies have severely limited resources, they are unlikely to acquire such staff. Corrections staff assigned to other duties usually do not have expertise in this area or the time to develop it.

*Scope of Work:* To develop the corrections data collection and analysis resources, the awardee will complete the following activities:

**Meet With NIC Staff**

The awardee will meet with NIC staff for a project kick-off meeting shortly after receiving the award. Meeting participants will review all aspects of the project, further refine the list of topics that will be included in the resources for NIC Web site, and review all requirements related to cooperative agreement processes. This meeting will last up to 2 days and will be conducted at NIC's offices in Washington, DC.

The awardee should plan at least 2 more face-to-face meetings with NIC staff. These meetings will be up to 2 days long and held in Washington, DC. Web-Ex meetings will be planned during critical development points in the project. Awardee must have Web-Ex capabilities.

**Research Materials**

Based on the refined list of topics to be included on the NIC Web site, the awardee will research related materials in partnership with the NIC Information Center for inclusion on the Web site. As part of this task, the awardee will review documents or other web-based resources for applicability and appropriate use on the Web site. In many cases NIC will provide the resources for review. However, it is expected that the awardee will identify documents and other resources for the review. Original writing is required to provide a brief summary or annotation of recommended documents or materials.

**Develop Informational Materials**

The awardee will identify those topics for which they could find no suitable materials. NIC will determine how best to address the issue after discussion with the awardee.

**Develop Data Applications for Data Analysis and Statistical Reporting**

These data applications will provide users with the capabilities to enter their own data and review the results in graphs or charts (a corrections dashboard). During the initial planning session and after research about available resources, the type and number of applications will be discussed. We anticipate that 3–5 of these applications will be developed initially.

*Examples of possible data applications include:* (1) Correctional Population Trends—Tracks daily number of inmates by categories gender, age, race, sentencing stats, Average Daily Population, Average length of stay, primary charge; (2) Staff Trends—Tracks number of staff post, number of employees, vacancies, types of leave, overtime usage; (3) Budget Status—Tracks budgets by standard categories, obligations, expenditures and balance; (4) Program Attendance—Tracks types of programs, enrollments and completions; (5) Incident Reports—Tracks daily incidents by categories like major, minor, reported and confirmed sexual assaults.

**Develop Tutorials and ''How To'' Resources**

Brief tutorials will be developed to demonstrate the use of the statistical reporting applications. These segments will be specific to the applications and provide guidelines for appropriate data gathering and quality assurance of data collected.

**Pilot the Applications**

Working with NIC's Information Center, Jails Division Staff and a pilot corrections facility chosen by NIC, the awardee will pilot the applications and tutorials to demonstrate its capabilities and usefulness.

**Deploy the Applications**

After successful pilot of the applications and tutorials, they will be deployed from the NIC Web site. The applications may also be distributed via CD or mobile application. The awardee will provide assistance for the developed applications and tutorials for the first 30 days of deployment on NIC's Web site. The awardee will be responsible for any technical issues resulting from development of the applications and supporting tutorials.

**Provide Ongoing Review of the Web Site Content**

In conjunction with the NIC Information Center and the Jails Division, during the term of the award, the awardee will provide continuous review of the Web site content as it is added to the site. It is expected that content (other than the applications under development) will be added regularly and that the awardee will provide reviews and recommendations to address any issues.

*Application Requirements:* An application package must include OMB Standard Form 425, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year under which the applicant operates (e.g., July 1 through June 30); and an outline of projected costs with the budget and strategy narratives described in this announcement. The following additional forms must also be included: OMB Standard Form 424A, Budget Information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (both available at *www.grants.gov*); DOJ/FBOP/NIC Certification Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *www.nicic.org/Downloads/PDF/certif-frm.pdf.*)

Applications should be concisely written, typed double spaced, and reference the NIC opportunity number and title referenced in this announcement. If you are hand delivering or submitting via Fed-Ex, please include an original and three copies of your full proposal (program and budget narrative, application forms, assurances and other descriptions). The original should have the applicant's signature in blue ink. Electronic submissions will be accepted only via *www.grants.gov.*

The narrative portion of the application should include, at a minimum: A brief paragraph indicating the applicant's understanding of the project's purpose; a brief paragraph that summarizes the project goals and objectives; a clear description of the methodology that will be used to complete the project and achieve its goals; a statement or chart of measurable project milestones and timelines for the completion of each milestone; a description of the qualifications of the applicant organization; a resume for the principal and each staff member assigned to the project (including developers) that documents relevant knowledge, skills, and abilities to carry out the project; and a budget that details all costs for the project, shows consideration for all contingencies for the project, and notes a commitment to work within the proposed budget.

In addition to the narrative and attachments, the applicant must submit a simple example of a proposed downloadable statistical analysis tool and slides representing a tutorial segment based on that tool.

**Authority:** Public Law 93–415.

*Funds Available:* NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. Funds may be used only for the activities that are linked to the desired outcome of the project. The funding amount should not exceed $135,000.00.

*Eligibility of Applicants:* An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, individual, or team with expertise in the described areas. Applicants must have demonstrated ability to implement a project of this size and scope.

*Review Considerations:* Applications will be subject to the NIC review process. The criteria for the evaluation of each application will be as follows:

**Project Design and Management (40%)**

Is there a clear understanding of the purpose of the project and the nature and scope of project activities? Does the applicant give a clear and complete description of all work to be performed for this project? Does the applicant clearly describe a work plan, including objectives, tasks, and milestones necessary to project completion? Are the roles and the time required of project staff clearly defined?

**Applicant Organization and Project Staff Background (40%)**

Is there a description of the background and expertise of all project personnel as they relate to this project? Does the applicant have an established reputation or skill that makes the applicant particularly well qualified for the project? Do primary project personnel, individually or collectively, have in-depth knowledge of the purpose, functions, and operational complexities of local corrections agencies? Do the primary project personnel, individually or collectively, have expertise and experience specified in the ''Summary'' section of this Request for Proposal?

**Budget (20%)**

Does the application provide adequate cost detail to support the proposed budget? Does the application include a chart that aligns the budget with project

activities along a timeline with, at minimum, quarterly benchmarks? In terms of program value, is the estimated cost reasonable in relation to work performed and project products?

**Note:** NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR). Applicants can obtain a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 800–333–0505. Applicants who are sole proprietors should dial 866–705–5711 and select option #1.

Applicants may register in the CCR online at the CCR Web site at *www.ccr.gov.* Applicants can also review a CCR handbook and worksheet at this Web site.

*Number of Awards:* One.

*NIC Opportunity Number:* 12JA04. This number should appear as a reference line in the cover letter, where the opportunity number is requested on Standard Form 424, and on the outside of the envelope in which the application is sent.

*Catalog of Federal Domestic Assistance Number:* 16.601.

*Executive Order 12372:* This project is not subject to the provisions of the executive order.

**Morris L. Thigpen,**

*Director, National Institute of Corrections.*

[FR Doc. 2012–13411 Filed 6–1–12; 8:45 am]

**BILLING CODE 4410–36–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

**[OMB Control No. 1219–0135]**

### Proposed Extension of Existing Information Collection; Health Standards for Diesel Particulate Matter Exposure (Underground Metal and Nonmetal Miners)

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration is soliciting comments concerning the extension of the information collection for 30 CFR 57.5060; 57.5065; 57.5066; 57.5070; 57.5071; and 57.5075. OMB last approved this information collection request on September 28, 2009. The collection expires on September 30, 2012.

**DATES:** All comments must be postmarked or received by midnight Eastern Time on August 3, 2012.

**ADDRESSES:** Comments concerning the information collection requirements of this notice must be clearly identified with ''OMB 1219–0135'' and sent to the Mine Safety and Health Administration (MSHA). Comments may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Facsimile:* 202–693–9441, include ''OMB 1219–0135'' in the subject line of the message.
- *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. For hand delivery, sign in at the receptionist's desk on the 21st floor.

**FOR FURTHER INFORMATION CONTACT:** Greg Moxness, Chief, Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *moxness.greg@dol.gov.* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under Section 101(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), and Title 5, United States Code, Section 553, the Secretary of Labor shall develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Diesel particulate matter (DPM) is a probable carcinogen that consists of tiny particles present in diesel engine exhaust that can readily penetrate into the deepest recesses of the lungs. Despite ventilation, the confined underground mine work environment may contribute to significant concentrations of particles produced by equipment used in the mine. Underground miners are exposed to higher concentrations of DPM than any other occupational group. As a result, they face a significantly greater risk than other workers of developing such diseases as lung cancer, heart failure, serious allergic responses and other cardiopulmonary problems.

This information collection addresses the recordkeeping associated with:

| | |
|---|---|
| § 57.5060 .... | Limit on exposure to diesel particulate matter. |
| § 57.5065 .... | Fueling practices. |
| § 57.5066 .... | Maintenance standards. |
| § 57.5070 .... | Miner training. |
| § 57.5071 .... | Exposure monitoring. |
| § 57.5075 .... | Diesel particulate records. |

### II. Desired Focus of Comments

The Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the health standards for diesel particulates matter in underground metal and nonmetal mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Address the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses), to minimize the burden of the collection of information on those who are to respond.

The public may examine publicly available documents, including the public comment version of the supporting statement, at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. OMB clearance requests are available on MSHA's Web site at *http://www.msha.gov* under ''Rules & Regs'' on the right side of the screen by selecting *Information Collections Requests, Paperwork Reduction Act Supporting Statements.* The document will be available on MSHA's Web site for 60 days after the publication date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because comments will not be edited to remove

any identifying or contact information, MSHA cautions the commenter against including any information in the submission that should not be publicly disclosed. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

### III. Current Actions

The information obtained from mine operators is used by MSHA during inspections to determine compliance with this health standard. MSHA has updated the data with respect to the number of respondents and responses, as well as the total burden hours and burden costs supporting this information collection extension request.

*Summary*

*Type of Review:* Extension.
*Agency:* Mine Safety and Health Administration.
*Title:* Health Standards for Diesel Particulates Matter in Underground Metal and Nonmetal Mines.
*OMB Number:* 1219–0135.
*Affected Public:* Business or other for-profit.
*Cite/Reference/Form/etc.:* 30 CFR 57.5060, 57.5065, 57.5066, 57.5070, 57.5071, and 57.5075.
*Total Number of Respondents:* 173.
*Frequency:* Various.
*Total Number of Responses:* 28,022.
*Total Burden Hours:* 3,329 hours.
*Total Annual Cost Burden:* $509,532.

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

**Authority:** 44 U.S.C. 3506(c)(2)(A).

Dated: May 29, 2012.

**George F. Triebsch,**

*Certifying Officer.*

[FR Doc. 2012–13400 Filed 6–1–12; 8:45 am]

**BILLING CODE 4510–43–P**

## LEGAL SERVICES CORPORATION

### Sunshine Act Meeting

**DATE AND TIME:** The Finance Committee of the Legal Services Corporation's Board of Directors will meet June 11, 2012. The meeting will commence at 1:00 p.m., Eastern Daylight Time, and will continue until the conclusion of the Committee's agenda.

**LOCATION:** F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

**PUBLIC OBSERVATION:** Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below but are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold. From time to time, the presiding Chair may solicit comments from the public.

**CALL-IN DIRECTIONS FOR OPEN SESSIONS:**

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please immediately ''MUTE'' your telephone.

**STATUS OF MEETING:** Open.

**Matters To Be Considered**

1. Approval of Agenda.
2. Approval of minutes of the Committee's meeting of April 15, 2012.
3. Public Comment regarding LSC's fiscal year 2014 budget request:

- Presentation by a representative of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (SCLAID).
- Presentation by a representative of National Legal Aid & Defender Association (NLADA).
- Other interested parties.

4. Consider and act on other business.
5. Consider and act on adjournment of meeting.

**CONTACT PERSON FOR INFORMATION:** Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

**NON-CONFIDENTIAL MEETING MATERIALS:** Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC Web site, at *http://www.lsc.gov/board-directors/meetings/board-meeting-notices/non-confidential-materials-be-considered-open-session.*

**ACCESSIBILITY:** LSC complies with the American's with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov*, at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: May 31, 2012.

**Victor M. Fortuno,**

*Vice President and General Counsel.*

[FR Doc. 2012–13529 Filed 5–31–12; 4:15 pm]

**BILLING CODE 7050–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Digital I&C; Notice of Meeting

The ACRS Subcommittee on Digital Instrumentation and Control (DI&C) will hold a meeting on June 19, 2012, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

**Tuesday, June 19, 2012—8:30 a.m. Until 12:30 p.m.**

The Subcommittee will review and discuss the I&C licensing approach for reviewing the mPower reactor. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. 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), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate 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).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or 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 these references 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 (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: May 22, 2012.

**Antonio Dias,**

*Technical Advisor, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2012–13417 Filed 6–1–12; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Reliability and PRA; Notice of Meeting

The ACRS Subcommittee on Reliability and PRA will hold a meeting on June 19, 2012, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

*Tuesday, June 19, 2012—1:00 p.m. Until 5:00 p.m.*

The Subcommittee will review the draft report NUREG–1855, Rev. 1. ''Guidance on the Treatment of Uncertainties Associated with PRAs in Risk-Informed Decision Making.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. 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), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate 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).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or 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 these references 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 (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: May 22, 2012.

**Antonio Dias,**

*Technical Advisor, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2012–13418 Filed 6–1–12; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2012–0124; Docket No. 50–461]**

### Exelon Generation Company, LLC; Clinton Power Station, Unit 1

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of request for partial site release, and opportunity to comment.

**DATES:** Comments must be filed by June 13, 2012.

**ADDRESSES:** You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0124. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0124. 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:** Pete Hernández, Project Manager, or Joel Wiebe, Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–8319; email: *Pete.Hernandez@nrc.gov* or 301–415–6606; *JoeI.Wiebe@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Accessing Information and Submitting Comments

*A. Accessing Information*

Please refer to Docket ID NRC–2012–0124 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0124.

*NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice is provided the first time that a document is referenced. The application, dated November 18, 2011, is available electronically in ADAMS under Accession No. ML11340A077.

• *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–2012–0124 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 entering 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. Further Information

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering the request for partial site release to Facility Operating License No. NPF–62 issued to Exelon Generation Company, LLC (the licensee, EGC) for operation of the Clinton Power Station, Unit 1 (CPS), located in DeWitt County, Illinois.

The proposed partial site release would transfer 4-acres of property, owned by EGC, from CPS to Creek Township to expand the Lisenby Cemetery.

Before acceptance of the partial site release, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission is seeking public comments on this proposed determination. Any comments received on or before June 13, 2012 will be considered in making any final determination.

For further details with respect to this partial site release, see the application dated November 18, 2011, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

*Attorney for licensee:* Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

Dated at Rockville, Maryland, this 25th day of May 2012.

For the Nuclear Regulatory Commission.

**Michael Mahoney,**

*Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012–13419 Filed 6–1–12; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket Nos.: 50–213 and 72–39; NRC–2012–0123]**

## Connecticut Yankee Atomic Power Company; Haddam Neck Independent Spent Fuel Storage Installation, Staff Evaluation; Exemption

### 1.0 Background

Connecticut Yankee Atomic Power Company (CYAPCO, the licensee) is the holder of Facility Operating License No. DPR–61 which authorizes possession of nuclear fuel under Title 10 of the Code of Federal Regulations (10 CFR) part 50. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect. Per 10 CFR part 72, Subpart K, a general license is issued for the storage of spent fuel in an Independent Spent Fuel Storage Installation (ISFSI) to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50. Thus, CYAPCO also holds a 10 CFR part 72 general license which allows storage of spent fuel and greater than Class C waste at the Haddam Neck ISFSI in East Hampton, Connecticut.

Under Facility Operating License No. DPR–61, CYAPCO operated a Pressurized Water Reactor (PWR) until 1996 when operations ceased. Later, CYAPCO began transferring fuel from the reactor spent fuel pool into vertical dry casks at their ISFSI facility. These activities were completed in 2005, and final decommissioning of the reactor site was completed in 2007. The Haddam Neck ISFSI is a stand-alone ISFSI located on approximately five acres of land that was not released for unrestricted use after completion of decommissioning of the CY PWR.

The Power Reactor Security Rule, which applies to all 10 CFR part 50 licensees, was revised on March 27, 2009, with compliance required by March 31, 2010 (74 FR 13926). The NRC held a webinar on July 20, 2010, to provide clarification on the applicability of the power reactor security regulations to 10 CFR part 50 licensees undergoing decommissioning or 10 CFR part 50 licensees that have only a general licensed ISFSI. On August 2, 2010, the NRC issued a letter to CYAPCO clarifying the applicability of the revised power reactor security regulations to a Part 50 licensee undergoing decommissioning or a Part 50 licensee that has only a general licensed ISFSI. In the August 2, 2010, letter, the NRC noted that there are currently no security or health and safety concerns at these facilities that may not be in compliance with the current 10 CFR 73.55 requirements because the Security Plans at these facilities meet the baseline requirements of the previous version of 10 CFR 73.55 and also meet the requirements of subsequent NRC security orders. The NRC requested a response be submitted within 120 days of receipt of the August 2, 2010, letter.

By letter dated November 30, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103570296), CYAPCO responded to the August 2, 2010, letter. In its response, CYAPCO requested exemptions from certain requirements in 10 CFR 73.55, ''Requirements for Physical Protection of Licensed

Activities in Nuclear Power Reactors Against Radiological Sabotage,'' which it considered either not applicable or caused an undue burden to a stand-alone ISFSI. CYAPCO also submitted a matrix which described how CYAPCO either complied with 10 CFR 73.55 and applicable orders or needed an exemption. CYAPCO further stated that its exemption request is intended to maintain its NRC-approved Physical Security Plan (PSP). In addition, CYAPCO noted that the statement of consideration for the Power Reactor Security Rule states that the Commission did not intend to make changes to the substantive requirements of 10 CFR 72.212 and that the Commission has initiated a separate rulemaking to revise the ISFSI security requirements (74 FR 13958).

**2.0 Discussion**

Pursuant to 10 CFR 73.5, ''Specific Exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements in 10 CFR part 73 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. The NRC evaluated the exemption requests submitted by CYAPCO in its November 30, 2010, letter. After evaluating the exemption requests, the staff determined CYAPCO should be granted exemptions from the following requirements: 10 CFR 73.55(e)(10)(ii) and 73.55(g)(8)(iv). Section 73.55(e)(10)(ii) sets forth requirements for restricting access by waterborne vehicles and 73.55(g)(8)(iv) sets forth access authorization requirements. The remaining exemptions requested were determined either to be inapplicable to the facility or are being met by the licensee's current PSP; therefore, these exemptions were denied. Additional information regarding the NRC staff evaluation is documented in a Safety Evaluation Report that contains Sensitive Unclassified Non-Safeguards Information and is being withheld from public inspection in accordance with 10 CFR 2.390.

In considering these exemption requests, the staff reviewed an NRC letter dated January 30, 2003, which issued CYAPCO Amendment No. 199 to Facility Operating License No. DPR–61, and the Haddam Neck ISFSI PSP (Revision 2). The staff also reviewed the revised Power Reactor Security Rule, 10 CFR 73.55, which became effective on May 26, 2009 (74 FR 13926), to identify substantive changes affecting previously approved exemptions. In addition, the staff reviewed inspection reports prepared after conducting inspections of the licensee's facility, procedures, and PSP for compliance with all applicable regulations and NRC Orders. Based upon its review, the staff determined that current barriers and actions implemented under the Haddam Neck ISFSI PSP satisfy the requirements of 10 CFR 73.55, and that granting the requested exemptions will not result in a violation of the Atomic Energy Act of 1954, as amended (the Act), or the Commission's regulations. Therefore, the exemptions are authorized by law.

The purpose of the regulations in 10 CFR 73.55 is to establish and maintain a physical protection system designed to protect against radiological sabotage. The purpose of 10 CFR 73.55(e)(10)(ii) is to restrict waterborne vehicle access and perform periodic surveillance of waterway approaches. However, there are no pathways which allow waterborne vehicles to gain direct access to the ISFSI. Furthermore, CYAPCO employs site specific barriers as part of its NRC-approved PSP which are appropriate for the reduced radiological risk associated with a stand-alone ISFSI. The purpose of the regulations in 10 CFR 73.55(g)(8)(iv) is to ensure personnel trained as escorts be knowledgeable of where visitors would be working within the protected area and that visitors within the protected area will be escorted. The staff determined that the NRC approved measures currently employed by CYAPCO in its PSP are appropriate for the reduced radiological risk to the public from the ISFSI and are consistent with the general performance standards in 10 CFR 73.55(b). Therefore, the staff concludes that the exemptions do not pose an increased risk to public health and safety and are not inimical to the common defense and security. Given the above considerations, granting this exemption will not endanger life or property or the common defense and security.

As discussed above, the purpose of 10 CFR 73.55 is to protect against radiological sabotage. The staff determined granting CYAPCO an exemption from the requirements of 10 CFR 73.55(e)(10)(ii) and 73.55(g)(8)(iv) would not decrease the level of security currently in place at the Haddam Neck ISFSI, and will not result in increased radiological risk to the public from operation of this general licensed, stand-alone ISFSI. Accordingly, the staff has determined that, pursuant to 10 CFR 73.5, these exemptions are authorized by law and are otherwise in the public interest.

Granting exemptions from the requirements of 10 CFR 73.55(e)(10)(ii) and 73.55(g)(8)(iv) involves safeguards plans. Section 51.22(c)(25)(vi)(F) provides a categorical exclusion for exemptions involving safeguard plans provided that the criteria in 10 CFR 51.22(c)(25)(i)–(v) are also satisfied. In its review of the exemption request, the NRC determined that, pursuant to 10 CFR 51.22(c)(25): (i) Granting the exemptions neither involves a significant reduction in a margin of safety nor creates a new or different kind of accident from any accident previously evaluated, and thus no significant hazards considerations because there is no significant increase in either the probability or consequences of an accident previously evaluated; (ii) granting the exemptions would not produce a significant change in either the types or amounts of any effluents that may be released offsite because the requested exemptions neither change the effluents nor produce additional avenues of effluent release; (iii) granting the exemptions would not result in a significant increase in either occupational radiation exposure or public radiation exposure because the requested exemptions neither introduce new radiological hazards nor increase existing radiological hazards; (iv) granting the exemptions would not result in a significant construction impact because there are no construction activities associated with the requested exemptions; and (v) granting the exemptions would not result in a significant increase in the potential for or consequences from radiological accidents because the exemptions neither reduce the level of security in place at the Haddam Neck ISFSI nor create new accident precursors. Accordingly, this exemption meets the criteria for a categorical exclusion in 10 CFR 51.22(c)(25)(vi)(F).

**3.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants CYAPCO an exemption from the 10 CFR 73.55(e)(10)(ii) requirement to restrict waterborne vehicle access and perform periodic surveillance of waterway approaches as well as the 10 CFR 73.55(g)(8)(iv) requirement for escort personnel to be generally knowledgeable of visitor activities. In addition, CYAPCO shall continue to follow the NRC approved ISFSI PSP and applicable NRC orders. As discussed in

the preceding paragraph, the Commission has determined that this exemption meets the criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25)(vi)(F). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the granting of this exemption. These exemptions are effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of May 2012.

For the Nuclear Regulatory Commission.

**Douglas W. Weaver,**

*Deputy Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2012–13420 Filed 6–1–12; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Rollover Election (RI 38–117), Rollover Information (RI 38–118), and Special Tax Notice Regarding Rollovers (RI 37–22)

**AGENCY:** Office of Personnel Management.

**ACTION:** 60-Day Notice and request for comments.

**SUMMARY:** The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an extension, without change, of a currently approved collection information request (ICR) 3206–0212, Rollover Election (RI 38–117), Rollover Information (RI 38–118), and Special Tax Notice Regarding Rollovers (RI 37–22). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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 submissions of responses.

**DATES:** Comments are encouraged and will be accepted until August 3, 2012. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to U.S. Office of Personnel Management, Union Square 370, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler, or sent via electronic mail to *Alberta.Butler@opm.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

**SUPPLEMENTARY INFORMATION:** RI 38–117, Rollover Election, is used to collect information from each payee affected by a change in the tax code so that OPM can make payment in accordance with the wishes of the payee. RI 38–118, Rollover Information, explains the election. RI 37–22, Special Tax Notice Regarding Rollovers, provides more detailed information.

### Analysis

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Rollover Election, Rollover Information, and Special Tax Notice Regarding Rollover.

*OMB Number:* 3206–0212.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 1,500.

*Estimated Time per Respondent:* 40 minutes.

*Total Burden Hours:* 1,000.

U.S. Office of Personnel Management.

**John Berry,**

*Director.*

[FR Doc. 2012–13442 Filed 6–1–12; 8:45 am]

**BILLING CODE 6325–38–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Initial Certification of Full-Time School Attendance, RI 25–41

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** 60-Day Notice and request for comments.

**SUMMARY:** The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0099, Initial Certification of Full-Time School Attendance. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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 submissions of responses.

**DATES:** Comments are encouraged and will be accepted until August 3, 2012. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to U.S. Office of Personnel Management, Union Square 370, Retirement Services, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler, or sent via electronic mail to *Alberta.Butler@opm.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of

Personnel Management, 1900 E Street NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

**SUPPLEMENTARY INFORMATION:** RI 25–41, Initial Certification of Full-Time School Attendance, is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity benefits to children who are age 18 or older.

**Analysis**

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Initial Certification of Full-Time School Attendance.

*OMB Number:* 3206–0099.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 1,200.

*Estimated Time per Respondent:* 90 minutes.

*Total Burden Hours:* 1,800.

U.S. Office of Personnel Management.

**John Berry,**

*Director.*

[FR Doc. 2012–13444 Filed 6–1–12; 8:45 am]

**BILLING CODE 6325–38–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Reinstatement of Disability Annuity Previously Terminated Because of Restoration to Earning Capacity, RI 30–9

**AGENCY:** Office of Personnel Management.

**ACTION:** 60-Day Notice and request for comments.

**SUMMARY:** The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0138, Reinstatement of Disability Annuity Previously Terminated Because of Restoration to Earning Capacity. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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 submissions of responses.

**DATES:** Comments are encouraged and will be accepted until August 3, 2012. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Union Square 370, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler or sent via electronic mail to *Alberta.Butler@opm.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, U.S. Office of Personnel Management, 1900 E Street NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

**SUPPLEMENTARY INFORMATION:** RI 30–9 informs former disability annuitants of their right to request restoration under title 5, U.S.C. 8337 and 8455. It also specifies the conditions to be met and the documentation required for a person to request reinstatement.

**Analysis**

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Reinstatement of Disability Annuity Previously Terminated Because of Restoration to Earning Capacity.

*OMB Number:* 3206–0138.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 200.

*Estimated Time per Respondent:* 60 minutes.

*Total Burden Hours:* 200.

U.S. Office of Personnel Management.

**John Berry,**

*Director.*

[FR Doc. 2012–13445 Filed 6–1–12; 8:45 am]

**BILLING CODE 6325–38–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 206(3)–2, SEC File No. 270–216, OMB Control No. 3235–0243.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 206(3)–2 (17 CFR 275.206(3)–2), which is entitled ''Agency Cross Transactions for Advisory Clients,'' permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (the ''Act'') (15 U.S.C. 80b–6(3)) by obtaining a client's blanket consent to enter into agency cross transactions (i.e., a transaction in which an adviser acts as a broker to both the advisory client and the opposite party to the transaction). Rule 206(3)–2 applies to all registered investment advisers. In relying on the rule, investment advisers must provide certain disclosures to their clients. Advisory clients can use the disclosures to monitor agency cross transactions that affect their advisory account. The Commission also uses the information required by Rule 206(3)–2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the rule. Without the information collected under the rule, advisory clients would not have information necessary for monitoring their adviser's handling of their accounts and the Commission would be less efficient and effective in its inspection program.

The information requirements of the rule consist of the following: (1) Prior to obtaining the client's consent, appropriate disclosure must be made to the client as to the practice of, and the conflicts of interest involved in, agency cross transactions; (2) at or before the

completion of any such transaction, the client must be furnished with a written confirmation containing specified information and offering to furnish upon request certain additional information; and (3) at least annually, the client must be furnished with a written statement or summary as to the total number of transactions during the period covered by the consent and the total amount of commissions received by the adviser or its affiliated broker-dealer attributable to such transactions.

The Commission estimates that approximately 550 respondents use the rule annually, necessitating about 32 responses per respondent each year, for a total of 17,600 responses. Each response requires an estimated 0.5 hours, for a total of 8,000 hours. The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or representative survey or study of the cost of Commission rules and forms.

This collection of information is found at 17 CFR 275.206(3)–2 and is necessary in order for the investment adviser to obtain the benefits of Rule 206(3)–2. The collection of information requirements under the rule is mandatory. Information subject to the disclosure requirements of Rule 206(3)–2 does not require submission to the Commission; and, accordingly, the disclosure pursuant to the rule is not kept confidential.

Commission-registered investment advisers are required to maintain and preserve certain information required under Rule 206(3)–2 for five (5) years. The long-term retention of these records is necessary for the Commission's inspection program to ascertain compliance with the Advisers Act.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: May 29, 2012.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–13408 Filed 6–1–12; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rules 8b–1 to 8b–33; SEC File No. 270–135; OMB Control No. 3235–0176.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rules 8b–1 to 8b–33 (17 CFR 270.8b–1 to 8b–33) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') were adopted to standardize the mechanics of registration under the Investment Company Act and to provide more specific guidance for persons registering under the Investment Company Act than the information contained in the statute. For the most part, these procedural rules do not require the disclosure of information. Two of the rules, however, require limited disclosure of information.[1] The information required by the rules is necessary to ensure that investors have clear and complete information upon which to base an investment decision. The Commission uses the information that investment companies provide on registration statements in its regulatory, disclosure review, inspection and policy-making roles. The respondents to the collection of information are investment companies filing registration statements under the Investment Company Act.

The Commission does not estimate separately the total annual reporting and recordkeeping burden associated with rules 8b–1 to 8b-33 because the burden associated with these rules are included in the burden estimates the Commission submits for the investment company registration statement forms (*e.g.,* Form N–1A (17 CFR 239.15A and 274.11A), Form N–2 (17 CFR 239.14 and 274.11a–1), Form N–3 (17 CFR 239.17a and 274.11b), Form N–4 (17 CFR 239.17b and 274.11c), and Form N–6 (17 CFR 239.17c and 274.11d)). For example, a mutual fund that prepares a registration statement on Form N–1A must comply with the rules under Section 8(b), including rules on riders, amendments, the form of the registration statement, and the number of copies to be submitted. Because the fund only incurs a burden from the Section 8(b) rules when preparing a registration statement, it would be impractical to measure the compliance burden of these rules separately. The Commission believes that including the burden of the Section 8(b) rules with the burden estimates for the investment company registration statement forms provides a more accurate and complete estimate of the total burdens associated with the registration process. For administrative purposes, however, we are requesting approval for an information collection burden of one hour per year. This estimate of burden hours is not derived from a comprehensive or necessarily even representative study of the cost of the Commission's rules and forms.

Investment companies seeking to register under the Investment Company Act are required to provide the information specified in rules 8b-1 to 8b-33 if applicable. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email

[1] Rule 8b–3 (17 CFR 270.8b–3) provides that whenever a registration form requires the title of securities to be stated, the registrant must indicate the type and general character of the securities to be issued. Rule 8b–22 (17 CFR 270.8b–22) provides that if the existence of control is open to reasonable doubt, the registrant may disclaim the existence of control, but it must state the material facts pertinent to the possible existence of control.

to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 29, 2012.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–13407 Filed 6–1–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, June 7, 2012 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, June 7, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: May 31, 2012.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2012–13567 Filed 5–31–12; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–67066; File No. SR–NYSEArca–2012–46]**

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extension of Unlisted Trading Privileges to New Derivative Securities Products That Are Listed on Another Exchange and To Make Other Conforming and Technical Amendments

May 29, 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 May 16, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a rule change under Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 5.1(a) to set forth rules regarding the extension of unlisted trading privileges (''UTP'') to a new derivative securities product that is listed on another exchange and to make other conforming and technical amendments. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 5.1(a) to set forth rules regarding the extension of UTP to a new derivative securities product [5] that is listed on another exchange and to make other technical and conforming amendments. The purpose of the proposed rule change is to amend the Exchange's rules to consolidate into a single rule certain requirements for trading products on the Exchange pursuant to UTP that have been established in various new product proposals previously approved by the Commission.

Under current NYSE Arca Equities Rule 5.1, only listed or UTP securities may be dealt in on the Corporation. Securities may be listed or admitted to UTP on a ''when issued'' or ''when distributed'' basis. The Exchange proposes to clarify the Rule by putting the current text of the Rule in a new subparagraph (a)(1) and adding text to note that a security must be eligible for UTP under Section 12(f) of the Securities Exchange Act of 1934 (the ''Act''). The Exchange also proposes to add text that would provide that unlisted trading privileges may be extended to any security that is an NMS Stock (as defined in Rule 600 of Regulation NMS under the Act) that is listed on another national securities exchange and any such security would be subject to all the Exchange trading rules applicable to NMS Stocks, unless otherwise noted.

The Exchange proposes to add a new Rule 5.1(a)(2) to govern new derivative securities products. Any new derivative securities product would be subject to all Exchange trading rules applicable to equity securities, unless otherwise noted. Under proposed NYSE Arca Equities Rule 5.1(a)(2)(i), the Exchange would file a Form 19b–4(e) with the Commission for any security that is a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] A ''new derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument. *See* 17 CFR 240.19b–4(e).

new derivative securities product as defined in Rule 19b–4(e) under the Act.[6]

Under proposed NYSE Arca Equities Rule 5.1(a)(2)(ii), the Exchange would distribute an information circular prior to the commencement of trading in such a new derivative securities product that generally would include the same information as the information circular provided by the listing exchange, including (1) the special risks of trading the new derivative securities product, (2) the Exchange's rules that will apply to the new derivative securities product, including the suitability rule,[7] (3) information about the dissemination of value of the underlying assets or indices, and (4) the risk of trading during irregular trading hours due to the lack of calculation or dissemination of the intraday indicative value or a similar value.

Proposed NYSE Arca Equities Rule 5.1(a)(2)(iii) would remind ETP Holders[8] that they are subject to the prospectus delivery requirements under the Securities Act of 1933, as amended (the ''Securities Act''), unless the new derivative securities product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940, as amended (the ''1940 Act''), and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. The Exchange would inform its ETP Holders regarding the application of the provisions of this new subparagraph to a particular series of exchange-traded funds governed by the 1940 Act by means of an information circular.

Proposed NYSE Arca Equities Rule 5.1(a)(2)(iv) would address trading halts in the new derivative securities products traded on the Exchange pursuant to UTP. Under the proposed rule change, if a temporary interruption occurs in the calculation or wide dissemination of the intraday indicative value (or similar value) or the value of the underlying index or instrument and the listing market halts trading in the product, the Exchange, upon notification by the listing market of such halt due to such temporary interruption, also would immediately halt trading in that product on the Exchange. If the intraday indicative value (or similar value) or the value of the underlying index or instrument continues not to be calculated or widely available as of the commencement of trading on the Exchange on the next business day, the Exchange would not commence trading of the product that day. If an interruption in the calculation or wide dissemination of the intraday indicative value (or similar value) or the value of the underlying index or instrument continues, the Exchange could resume trading in the product only if calculation and wide dissemination of the intraday indicative value (or similar value) or the value of the underlying index or instrument resumes or trading in such series resumes in the listing market. The Exchange also would halt trading in a new derivative securities product listed on the Exchange for which a net asset value (and in the case of managed fund shares or actively managed exchange-traded funds, a ''disclosed portfolio'') is disseminated if the Exchange became aware that the net asset value or, if applicable, the disclosed portfolio was not being disseminated to all market participants at the same time. The Exchange would maintain the trading halt until such time as the Exchange became aware that the net asset value and, if applicable, the disclosed portfolio was available to all market participants. Nothing in the proposed rule would limit the power of the Exchange under the Rules (including without limitation Rules 7.12, 7.13, 7.18, and 7.34) or procedures of the Exchange with respect to the Exchange's ability to suspend trading in any securities if such suspension is necessary for the protection of investors or in the public interest.

Proposed NYSE Arca Equities Rule 5.1(a)(v) would provide for restrictions for any ETP Holder registered as a Market Maker in a new derivative securities product that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities (collectively, ''Reference Assets''). Specifically, the ETP Holder acting as a registered Market Maker in a new derivative securities product must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as registered Market Maker may have or over which it may exercise investment discretion. No ETP Holder acting as registered Market Maker in the new derivative securities product shall trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which an ETP Holder acting as a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. A Market Maker would be required, in a manner prescribed by the Exchange, to file with the Exchange and keep current a list identifying any accounts (''Related Instrument Trading Accounts'') for which Related Instruments are traded (1) in which the Market Maker holds an interest, (2) over which it has investment discretion, or (3) in which it shares in the profits and/or losses. In addition, a Market Maker would not be permitted to have an interest in, exercise investment discretion over, or share in the profits and/or losses of a Related Instrument Trading Account that has not been reported to the Exchange as required by the proposed rule. In addition to the existing obligations under Exchange rules regarding the production of books and records, a Market Maker would be required, upon request by the Exchange, to make available to the Exchange any books, records, or other information pertaining to any Related Instrument Trading Account or to the account of any registered or non-registered employee affiliated with the Market Maker for which Related Instruments are traded. Finally, a Market Maker could not use any material nonpublic information in connection with trading a Related Instrument.

The Exchange represents that its surveillance procedures for new derivative securities products traded on NYSE Arca Equities pursuant to UTP would be similar to the procedures used for equity securities traded on the Exchange and would incorporate and rely upon existing Exchange surveillance systems. The Exchange would closely monitor activity in new derivative securities products traded on the Exchange pursuant to UTP and deter any potential improper trading activity. The proposed rule change also provides that the Exchange would enter into a comprehensive surveillance sharing agreement (''CSSA'') with a market that trades components of the index or portfolio on which the new derivative securities product is based to the same extent that the listing exchange's rules require the listing market to enter into a CSSA with such market.

[6] *See supra* note 5.

[7] *See* NYSE Arca Equities Rule 9.2(a)(2).

[8] The term ''ETP Holder'' refers to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an Equity Trading Permit. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. *See* NYSE Arca Equities Rule 1(n).

Lastly, the Exchange proposes to remove references in NYSE Arca Equities Rule 5.2(j)(3) Commentaries .01, .02, and .03; Rule 8.100 Commentaries .01, .02, and .03; and Rule 8.202 Commentary .04 that refer to the current UTP policy. The Exchange proposes to delete these references as they will be rendered obsolete by the proposed rule change or are unnecessary. The proposed deletions address the dissemination of information, surveillance procedures, and disclosures that are addressed by the proposed rule change, or cross-reference the Exchange's trading hours in a manner that is unnecessary. The Exchange also proposes to amend the definitions of ''UTP Listing Market'' in NYSE Arca Equities Rules 1(jj) and to amend the provisions for UTP regulatory halts in NYSE Arca Equities 7.18 to reflect that securities traded UTP may be listed on any exchange.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [9] in general and furthers the objectives of Section 6(b)(5) [10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change also is consistent with Section 11A(a)(1) of the Act,[11] in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets, and Section 12(f) of the Act,[12] which governs the trading of securities pursuant to UTP consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities. The Exchange believes that the proposed amendment is consistent with the goal of removing impediments to a free and open market because it will harmonize NYSE Arca's UTP policy with rules of other exchanges, further promote fair competition in trading among exchanges, and be consistent with the requirements for UTP under the Act.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1(a)(1).

[12] 15 U.S.C. 78l(f).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Other*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because such waiver should benefit investors by creating, without undue delay, additional competition in the trading of new derivative securities products, subject to consistent and reasonable standards. Proposed NYSE Arca Equities Rule 5.1(a) is closely modeled after similar rules of other national securities exchanges [15] and does not raise any novel or significant regulatory issues. Therefore, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2012–46 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–NYSEArca–2012–46. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and the 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.

[15] *See* BATS Exchange Rule 14.1 and Securities Exchange Act Release No. 58623 (September 23, 2008), 73 FR 57169 (October 1, 2008) (SR–BATS–2008–004); National Stock Exchange Rule 15.9 and Securities Exchange Act Release No. 57448 (March 6, 2008), 73 FR 13597 (March 13, 2008) (SR–NSX–2008–05); NASDAQ OMX PHLX Rule 803(o) and Securities Exchange Act Release No. 57806 (May 9, 2008), 73 FR 28541 (May 16, 2008) (SR–Phlx–2008–34); NASDAQ Marketplace Rule 5740 and Securities Exchange Act Release No. 59663 (March 31, 2009), 74 FR 15552 (April 6, 2009) (SR–NASDAQ–2009–018).

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2012–46 and should be submitted on or before June 25, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–13405 Filed 6–1–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–67070; File No. SR–ICC–2012–04]**

## Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Add Rules Related to the Clearing of Emerging Markets Sovereign Index Credit Default Swaps

May 29, 2012.

On April 3, 2012, ICE Clear Credit (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 26C, Section 26E, and Schedule 502 of ICC's rulebook. The proposed rule change was published for comment in the **Federal Register** on April 16, 2012.[3] The Commission received no comments on this proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is May 31, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would allow ICC to list the five year tenor of the CDX Emerging Markets Index CDS, Series 14, 15, 16 and 17 contracts. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates July 13, 2012 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (SR–ICC–2012–04).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–13410 Filed 6–1–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–67071; File No. SR–Phlx–2012–67]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the MSCI EAFE Index

May 29, 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 May 16, 2012, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the trading hours for options on the MSCI EAFE Index.[3]

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 Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Exchange Rule 1101A entitled ''Terms of Option Contracts'' to change the trading hours for options on the MSCI EAFE Index on the last trading day prior to expiration. Specifically, the Exchange proposes to amend Commentary .01 of Exchange Rule 1101A to note that ''Transactions in options on the Full Value MSCI EAFE Index may be effected on the Exchange until 4:15 p.m. each business day, except that on the last trading day prior to expiration transactions may be effected on the Exchange until 11:00 a.m.'' For example, for the month of May 2012, options on the MSCI EAFE Index would trade until 4:15 each day except for May 18, 2012. Because May 19, 2012 is an expiration day, the Exchange would trade options on the MSCI EAFE Index until 11:00 a.m. on May 18, 2012, the last trading day prior to expiration.[4]

Futures on the MSCI EAFE Index currently trade at NYSE Liffe and these futures cease trading at 11:00 a.m. on the third Friday of the month.[5] The Exchange proposes to similarly cease trading options on the MSCI EAFE Index at 11:00 a.m. on the trading day

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66777 (April 10, 2012), 77 FR 22623 (April 16, 2012).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange has entered into a license agreement with MSCI Inc. (''MSCI'') to list this product.

[4] The expiration date for options on the MSCI EAFE index is the Saturday following the third Friday of the expiration month. These options expire each month of the calendar year.

[5] NYSE Liffe futures based on the MSCI EAFE Mini Index utilizes p.m. closing prices for settlement. Futures for the MSCI EAFE Index were listed for trading on September 8, 2009. *See http://www.nyse.com/pdfs/19-2009.pdf.* On June 20, 2011, NYSE Liffe became the sole Designated Contract Market to list futures on the MSCI EAFE Index. *See http://www.nyse.com/pdfs/15-2011.pdf.* Futures on the MSCI EAFE Index expire on a quarterly cycle.

preceding expiration.[6] At the time that the Exchange filed to list options on the MSCI EAFE Index,[7] it inadvertently did not amend the trading hours to reflect similar hours as that of the futures products. The Exchange believes that closing the trading of options on the MSCI EAFE Index early on the last trading day prior to expiration would align the trading of options with that of futures on the MSCI EAFE Index, which today closes at 11:00 a.m. on the trading day preceding expiration in each cycle month.[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by amending the trading hours to coincide with the trading hours of futures on the MSCI EAFE Index.

The Exchange believes closing the trading of options on the MSCI EAFE Index early on the last trading day prior to expiration, similar to MSCI EAFE futures products would align both options and futures on the MSCI EAFE Index. The Exchange also believes that aligning the trading hours for products which trade on the MSCI EAFE Index would provide investors and market makers a greater ability to hedge.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

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–Phlx-2012–67 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–2012–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2012–67 and should be submitted on or before June 25, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–13406 Filed 6–1–12; 8:45 am]

**BILLING CODE 8011–01–P**

[6] The settlement value for expiring options on the MSCI EAFE Index would be based on the closing prices of the component stocks on the last trading day prior to expiration, usually a Friday. Specifically, the MSCI EAFE Index components open with the start of trading in Asia at 6:00 p.m. E.T. (prior day) and closes with the end of trading in Europe at 12:30 p.m. E.T. (the next day) as closing prices from Ireland are accounted for in the closing calculation. The closing index level value is distributed by MSCI between 2:00 and 2:30 p.m. e.t. each trading day.

[7] *See* Securities Exchange Act Release No. 66861 (April 26, 2012), 77 FR 26056 (May 2, 2012) (SR–Phlx–2012–28).

[8] The Exchange would issue an Options Trader Alert when this filing becomes effective to notify its members when the close of trading hours will change to 11:00 a.m.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF STATE

**[Public Notice 7912]**

### Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 2 p.m. to 4 p.m. on Wednesday, June 20, 2012, in room 1107 of the Harry S. Truman Building at the U.S. Department of State, 2201 C Street NW., Washington, DC. The meeting will be hosted by the Assistant Secretary of State for Economic and Business Affairs Jose W. Fernandez and Committee Chair Ted Kassinger. The ACIEP serves the U.S. Government in a solely advisory capacity, and provides

advice concerning issues and challenges in international economic policy. The meeting will focus on Economic Statecraft—Using Diplomacy to Meet Our Economic Goals. Subcommittee reports will be led by the Investment Subcommittee, the Sanctions Subcommittee, the Subcommittee on Women in International Economic Policy, and the Stakeholder Advisory Board. Additional topics may be added to the agenda, please check the ACIEP Web site *http://www.state.gov/e/eb/adcom/aciep/index.htm* for updates.

This meeting is open to public participation, though seating is limited. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by Friday, June 15, their name, professional affiliation, valid government-issued ID number (i.e., U.S. Government ID [agency], U.S. military ID [branch], passport [country], or drivers license [state]), date of birth, and citizenship, to Ronelle Jackson by fax (202) 647–5936, email (*JacksonRS@state.gov*), or telephone (202) 647–9204. Participants may enter the Department of State from the entrance on 23rd Street. In view of escorting requirements, non-Government attendees should plan to arrive 15 minutes before the meeting begins. Requests for reasonable accommodation should be made to Ronelle Jackson prior to Wednesday, June 13. Requests made after that date will be considered, but might not be possible to fulfill.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Privacy Impact Assessment for VACS–D at *http://www.state.gov/documents/organization/100305.pdf* for additional information.

For additional information, contact Deputy Outreach Coordinator Tiffany Enoch, Office of Economic Policy Analysis and Public Diplomacy, Bureau of Economic and Business Affairs, at (202) 647–2231 or *EnochT@state.gov.*

Dated: May 29, 2012.

**Maryruth Coleman,**

*Director, Office of Economic Policy Analysis and Public Diplomacy, U.S. Department of State.*

[FR Doc. 2012–13450 Filed 6–1–12; 8:45 am]

BILLING CODE 4710–07–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Dispute No. WTO/DS430]**

## WTO Dispute Settlement Proceeding Regarding India—Measures Concerning the Importation of Certain Agricultural Products

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (''USTR'') is providing notice that on May 11, 2012, the United States requested establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') with the Government of India (''India'') concerning measures imposed by India on the importation of various agricultural products from the United States, purportedly because of concerns related to avian influenza. That request may be found at *www.wto.org* contained in a document designated as WT/DS430/2. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 5, 2012 to be assured of timely consideration by USTR.

**ADDRESSES:** Public comments should be submitted electronically to *www.regulations.gov,* docket number USTR–2012–0004. If you are unable to provide submissions to *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

**FOR FURTHER INFORMATION CONTACT:** Mayur R. Patel, Assistant General Counsel, or Micah S. Myers, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508, (202) 395–3150.

**SUPPLEMENTARY INFORMATION:** Section 127(b)(1) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that it has requested a panel pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (''DSU''). Once it is established, the panel will hold its meetings in Geneva, Switzerland, and would be expected to issue a report on its findings and recommendations within nine months of its establishment.

### Major Issues Raised by the United States

India's avian influenza measures prohibit the importation of various agricultural products into India from those countries reporting Notifiable Avian Influenza (both Highly Pathogenic Avian Influenza and Low Pathogenic Avain Influenza). These measures are set forth through the following legal instruments: the Indian Livestock Importation Act, 1898 (9 of 1898) (''Livestock Act''), orders issued by the India's Department of Animal Husbandry, Dairying, and Fisheries pursuant to the Livestock Act, most recently S.O 1663(E), which was published in the Gazette of India on July 19, 2011, and amendments, related measures, or other implementing measures. The United States considers these measures to be inconsistent with Articles 2.2, 2.3, 3.1, 5.1, 5.2, 5.5, 5.6, 6.1, 6.2, 7, and Annex B, paragraphs 2 and 5 of the Agreement on the Application of Sanitary and Phytosanitary Measures and Article XI of the General Agreement on Tariffs and Trade 1994.

On March 6, 2012, the United States requested consultations with India. That request may be found at *www.wto.org* contained in a document designated as WT/DS430/1. The United States and India held consultations on April 16 and 17, 2012, but the consultations did not resolve the matter.

### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov,* docket number USTR–2012–0004. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2012–0004 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document

Type'' on the left side of the search-results page, and click on the link entitled ''Submit a Comment.'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.)

The *www.regulations.gov* site provides the option of providing comments by filling in a ''Type Comments'' field, or by attaching a document using an ''upload file'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR's web site at *www.ustr.gov*, and the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the Web site of the World Trade Organization, *www.wto.org.* Comments open to public inspection may be viewed on the *www.regulations.gov* Web site.

**Bradford Ward,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 2012–13471 Filed 6–1–12; 8:45 am]

**BILLING CODE 3190–W2–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of New Approval of Information Collection: Commercial Aviation Safety Team Safety Enhancements

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 4, 2011, vol. 76, no. 150, page 47287–47288. The FAA intends to collect safety-related data regarding the voluntary implementation of Commercial Aviation Safety Team (CAST) safety enhancements (SEs) from certificate holders conducting operations under 14 CFR Part 121 and Parts 121/135.

**DATES:** Written comments should be submitted by July 5, 2012.

**FOR FURTHER INFORMATION CONTACT:** Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–XXXX.

*Title:* Commercial Aviation Safety Team Safety Enhancements.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Clearance of a new information collection.

*Background:* The FAA intends to collect safety-related data regarding the voluntary implementation of Commercial Aviation Safety Team safety enhancements from certificate holders conducting operations under 14 CFR Part 121 and Parts 121/135. The FAA is seeking a generic information collection request clearance because this collection will be composed of a series of individual collections using similar methods. Certificate-holder participation in this data collection will be voluntary and is not required by regulation. As CAST SEs are finalized, the FAA will determine the details of individual information collections in consultation with CAST and certificate holders.

*Respondents:* Approximately 100 certificate holders.

*Frequency:* Information will be collected on occasion.

*Estimated Average Burden per Response:* 40 minutes.

*Estimated Total Annual Burden:* 1333.33 hours.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

*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 FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA 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.

Issued in Washington, DC on May 29, 2012.

**Albert R. Spence,,**

*FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2012–13423 Filed 6–1–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2012–0106]**

### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 12 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision requirement.

**DATES:** Comments must be received on or before July 5, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0106 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line 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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 12 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

#### Qualifications of Applicants

*Robert F. Bennett*

Mr. Bennett, age 68, has complete loss of vision in his left eye due to a traumatic injury sustained at age 29. The best corrected visual acuity in his right eye is 20/25, and in his left eye, light perception only. Following an examination in 2011, his ophthalmologist noted, ''I see no reason why he cannot continue to operate a commercial vehicle in a safe manner since he has apparently done so for the past 30 or more years.'' Mr. Bennett reported that he has driven straight trucks for 31 years, accumulating 372,000 miles, and tractor-trailer combinations for 31 years, accumulating 372,000 miles. He holds a Class A Commercial Driver's License (CDL) from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Dale W. Coblentz*

Mr. Coblentz, 44, has central corneal scarring in his left eye due to a traumatic incident sustained 25 years ago. The best corrected visual acuity in his right eye is 20/20, and in his left, 20/100. Following an examination in 2012, his optometrist noted, ''In my medical opinion Mr. Coblentz has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Coblentz reported that he has driven straight trucks for 8 years, accumulating 220,000 miles, and tractor-trailer combinations for 2 years, accumulating 200,000 miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael L. Dean*

Mr. Dean, 36, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''In my medical opinion Michael Dean has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Dean reported that he has driven straight trucks for 10 years, accumulating 320,000 miles, and tractor-trailer combinations for 10 years, accumulating 320,000 miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

*Damon G. Gallardo*

Mr. Gallardo, 36, has had decreased vision in his left eye due to a retinal detachment sustained in 1987. The best corrected visual acuity in his right eye is 20/15 and in his left eye, 20/200. Following an examination in 2012, his ophthalmologist noted, ''It is my medical opinion that Mr. Gallardo has

sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Gallardo reported that he has driven straight trucks for 9 years, accumulating 397,800 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Marc D. Groszkrueger*

Mr. Groszkrueger, 59, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye, 20/200, and in his left eye is 20/20. Following an examination in 2011, his optometrist noted, ''I feel in my medical opinion that Marc has sufficient vision to operate a commercial vehicle.'' Mr. Groszkrueger reported that he has driven straight trucks for 10 years, accumulating 5,000 miles. He holds a Class B CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Daniel L. Grover*

Mr. Grover, 62, has complete loss of vision in his right eye due to a traumatic incident sustained as a child. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2011, his ophthalmologist noted, ''There is no significant ocular disease in his left eye that should interfere with his ability to continue to maintain his driving privileges.'' Mr. Grover reported that he has driven straight trucks for 20 years, accumulating 680,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James E. Modaffari*

Mr. Modaffari, 64, has had optic nerve atrophy in his right eye since birth. The best corrected visual acuity in his right eye is count-finger vision, and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, ''In my medical opinion, Mr. Modaffari has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Modaffari reported that he has driven straight trucks for 6 years, accumulating 3,000 miles, and tractor-trailer combinations for 35 years, accumulating 5,889,800 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 13 mph.

*Gerardus C. Molenaar*

Mr. Molenaar, 59, has complete loss of vision in his right eye since childhood. The best corrected visual acuity in his right eye is light perception only, and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, ''It is my opinion that Gerardus C. Molenaar has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Molenaar reported that he has driven straight trucks for 25 years, accumulating 50,000 miles. He holds a Class C operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James J. Narkewich*

Mr. Narkewich, 55, has had presbyopia and epiretinal membrane in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''I believe Mr. Narkewich has sufficient vision to operate a commercial vehicle, however it is ultimately up to the Federal Motor Safety Administration to decide whether Mr. Narkewich is able to operate a commercial vehicle.'' Mr. Narkewich reported that he has driven straight trucks for 5 years, accumulating 40,000 miles. He holds a Class D operator's license from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Philip N. Polcastro*

Mr. Polcastro, 57, has had an enucleation of his left eye since childhood. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2011, his ophthalmologist noted, ''Therefore, Mr. Polcastro has sufficient vision to operate a commercial vehicle.'' Mr. Polcastro reported that he has driven straight trucks for 38 years, accumulating 2,584,000 miles, and tractor-trailer combinations for 38 years, accumulating 1,140,000 miles. He holds a Class D operator's license from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gregory A. Reinert*

Mr. Reinert, 49, has retinal detachment in his left eye due to a traumatic incident that occurred as a child. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2011, his optometrist noted, ''In my professional opinion, Mr. Reinert has sufficient vision to perform the driving tasks required to operate a commercial vehicle with no limitations.'' Mr. Reinert reported that he has driven straight trucks for 28 years, accumulating 280,000 miles, and tractor-trailer combinations for 28 years, accumulating 1,120,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

*Scott J. Schlenker*

Mr. Schlenker, 50, has severe retinal damage in his right eye from a traumatic injury sustained in 1981. The best corrected visual acuity in his right eye is finger count vision and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''In my opinion, Mr. Schlenker has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Schlenker reported that he has driven straight trucks for 15 years, accumulating 300,000 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business July 5, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: May 24, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012–13415 Filed 6–1–12; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2012–0116; Notice No. 12–6]**

### International Standards on the Transport of Dangerous Goods; Public Meeting

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice is to advise interested persons that PHMSA will conduct a public meeting in preparation for the 41st session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG) to be held June 25 to July 4, 2012, in Geneva, Switzerland. During this meeting, PHMSA is also soliciting comments relative to potential new work items which may be considered for inclusion in its international agenda.

### Information Regarding the UNSCOE TDG Meeting

**DATES:** Wednesday, June 13, 2012; 9 a.m.–12 noon.

**ADDRESSES:** The meeting will be held at the DOT Headquarters, West Building, Conference Rooms 8–10, 1200 New Jersey Avenue SE., Washington, DC 20590.

*Registration:* Attendees may pre-register for this meeting by completing the form at *http://www.phmsa.dot.gov/hazmat/regs/international.* Failure to pre-register may delay your access to the building. Attendees are encouraged to arrive early to allow time for security checks necessary to obtain access to the building.

*Conference Call Capability/Live Meeting Information:* Conference call-in and ''live meeting'' capability will be provided for this meeting. Call in information is as follows:

*Toll Free:* (800) 260–0712.

*Participant Access Code:* 242757.

Specific information on live meeting access will be posted when available at *http://www.phmsa.dot.gov/hazmat/regs/international.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Vincent Babich or Mr. Steven Webb, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–8553.

**SUPPLEMENTARY INFORMATION:** The primary purpose of this meeting will be to prepare for the 41st session of the UNSCOE TDG. The 41st session of the UNSCOE TDG is the third of four meetings scheduled for the 2011–2012 biennium. The UNSCOE TDG will consider proposals for the 18th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations which will be implemented within relevant domestic, regional, and international regulations from January 1, 2015. Copies of working documents, informal documents, and the meeting agenda may be obtained from the United Nations Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3age.html.*

General topics on the agenda for the UNSCOE TDG meeting include:

- Explosives and related matters.
- Listing, classification and packing.
- Electric storage systems.
- Miscellaneous proposals of amendments to the Model Regulations.
- Electronic data interchange (EDI) for documentation purposes.
- Cooperation with the International Atomic Energy Agency (IAEA).
- Global harmonization of transport of dangerous goods regulations.
- Guiding principles for the Model Regulations.
- Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

Following the 41st session of the UNSCOE TDG, a copy of the Sub-Committee's report will be available at the United Nations Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3rep.html.* PHMSA's site at *http://www.phmsa.dot.gov/hazmat/regs/international* provides additional information regarding the UNSCOE TDG and related matters.

Issued in Washington, DC, on May 29, 2012.

**William Schoonover,**

*Deputy Associate Administrator, Field Operations, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2012–13399 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–60–P

# FEDERAL REGISTER

Vol. 77 Monday,

No. 107 June 4, 2012


Part II

## Environmental Protection Agency

40 CFR Part 52

Approval, Disapproval and Promulgation of Implementation Plans; State of Wyoming; Regional Haze State Implementation Plan; Federal Implementation Plan for Regional Haze; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R08–OAR–2012–0026, FRL–9678–9]**

## Approval, Disapproval and Promulgation of Implementation Plans; State of Wyoming; Regional Haze State Implementation Plan; Federal Implementation Plan for Regional Haze

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to partially approve and partially disapprove approve a State Implementation Plan (SIP) revision submitted by the State of Wyoming on January 12, 2011, that addresses regional haze. This SIP revision was submitted to address the requirements of the Clean Air Act (CAA or ''the Act'') and our rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is taking this action pursuant to section 110 of the CAA.

EPA is proposing a Federal Implementation Plan (FIP) to address the deficiencies identified in our proposed partial disapproval of Wyoming's regional haze SIP. In lieu of this proposed FIP, or a portion thereof, we propose approval of a SIP revision if the State submits such a revision and the revision matches the terms of our proposed FIP.

**DATES:** *Comments:* Written comments must be received at the address below on or before August 3, 2012. *Public Hearings:* A public hearing for this proposal is scheduled to be held on Tuesday, June 26, 2012, at the Hershchler Building, Room B–63, 122 W. 25th St., Cheyenne, Wyoming 82002. Another public hearing is scheduled to be held on Thursday, June 28, 2012, at Western Wyoming Community College, Room 1005, 2500 College Drive, Rock Springs, Wyoming 82901. The public hearings will be held from 1 p.m. until 5 p.m., and again from 6 p.m. until 8 p.m.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0026, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: r8airrulemakings@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R08–OAR–2012–0026. 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. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6144, *dygowski.laurel@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Definitions

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

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

ii. The initials *AFRC* mean or refer to air-fuel ratio controls.

iii. The initials *BART* mean or refer to Best Available Retrofit Technology.

iv. The initials *CAMx* mean or refer to Comprehensive Air Quality Model.

v. The initials *CMAQ* mean or refer to Community Multi-Scale Air Quality modeling system.

vi. The initials *CEMS* mean or refer to continuous emission monitoring systems.

vii. The initials *EC* mean or refer to elemental carbon.

viii. The initials *EGUs* mean or refer to Electric Generating Units.

ix. The initials *EGR* mean or refer to exhaust gas recirculation.

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

xi. The initials *ESP* mean or refer to electrostatic precipitator.

xii. The initials *FGC* mean or refer to flue gas conditioning.

xiii. The initials *FGD* mean or refer to flue gas desulfurization.

xiv. The initials *FGR* mean or refer to external flue gas recirculation.

xv. The initials *FIP* mean or refer to Federal Implementation Plan.

xvi. The initials *FLMs* mean or refer to Federal Land Managers.

xvii. The initials *FS* mean or refer to the U.S. Forest Service.

xviii. The initials *IMPROVE* mean or refer to Interagency Monitoring of Protected Visual Environments monitoring network.

xix. The initials *IWAQM* mean or refer to Interagency Workgroup on Air Quality Modeling.

xx. The initials *LEC* mean or refer to low-emission combustion.

xxi. The initials *LNB* mean or refer to low $NO_X$ burner.

xxii. The initials *LTS* mean or refer to the long-term strategy.

xxiii. The initials *MW* mean or refer to megawatts.

xxiv. The initials $NH_3$ mean or refer to ammonia.

xxv. The initials $NO_X$ mean or refer to nitrogen oxides.

xxvi. The initials *NPS* mean or refer to National Park Service.

xxvii. The initials *OC* mean or refer to organic carbon.

xxviii. The initials *OFA* mean or refer to overfire air.

xxix. The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers.

xxx. The initials $PM_{10}$ mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers.

xxxi. The initials *PSAT* mean or refer to Particle Source Apportionment Technology.

xxxii. The initials *PSD* mean or refer to Prevention of Signification Deterioration.

xxxiii. The initials *RAVI* mean or refer to Reasonably Attributable Visibility Impairment.

xxxiv. The initials *RHR* mean or refer to the Regional Haze Rule.

xxxv. The initials *RMC* mean or refer to the Regional Modeling Center at the University of California Riverside.

xxxvi. The initials *RPGs* mean or refer to Reasonable Progress Goals.

xxxvii. The initials *RPOs* mean or refer to regional planning organizations.

xxxviii. The initials *SCR* mean or refer to selective catalytic reduction.

xxxix. The initials *SIP* mean or refer to State Implementation Plan.

xl. The initials *SNCR* mean or refer to selective non-catalytic reduction.

xli. The initials $SO_2$ mean or refer to sulfur dioxide.

xlii. The initials *SOFA* mean or refer to separated overfire air.

xliii. The initials *TSD* mean or refer to Technical Support Document.

xliv. The initials *ULNB* mean or refer to ultra-low $NO_X$ burners.

xlv. The initials *URP* mean or refer to Uniform Rate of Progress.

xlvi. The initials *VOC* mean or refer to volatile organic compounds.

xlvii. The initials *WAQSR* mean or refer to Wyoming Air Quality Standards and Regulations.

xlviii. The initials *WEP* mean or refer to Weighted Emissions Potential.

xlix. The initials *WRAP* mean or refer to the Western Regional Air Partnership.

l. The words *Wyoming* and *State* mean the State of Wyoming.

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## I. General Information

### *A. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that

includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

## II. Overview of Proposed Actions

EPA is proposing to partially approve and partially disapprove a regional haze SIP revision submitted by the State of Wyoming on January 12, 2011. Specifically, we are proposing to disapprove the following:

- The State's nitrogen oxides ($NO_X$) best available retrofit technology (BART) determinations for PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3.
- The State's $NO_X$ reasonable progress determination for PacifiCorp Dave Johnston Units 1 and 2.
- Wyoming's Reasonable Progress Goals (RPGs).
- The State's monitoring, recordkeeping, and reporting requirements in Chapter 6.4 of the SIP.
- Portions of the State's long-term strategy (LTS) that rely on or reflect other aspects of the regional haze SIP.
- The State's SIP because it does not contain the necessary provisions to meet the requirements for the coordination of the review of the reasonably attributable visibility impairment (RAVI) and the regional haze LTS.

We are proposing to approve the remaining aspects of the State's January 12, 2011, SIP submittal. We are also seeking comment on two alternative proposals related to the State's $NO_X$ BART determination for PacifiCorp Jim Bridger Units 1 and 2.

We are proposing the promulgation of a FIP to address the deficiencies in the Wyoming regional haze SIP that we have identified in this proposal. The proposed FIP includes the following elements:

- $NO_X$ BART determinations and limits for PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3.
- $NO_X$ reasonable progress determination and limits for PacifiCorp Dave Johnston Units 1 and 2.
- RPGs consistent with the SIP limits proposed for approval and the proposed FIP limits.
- Monitoring, recordkeeping, and reporting requirements applicable to all BART and reasonable progress sources for which there is a SIP or FIP emissions limit.
- LTS elements pertaining to emission limits and compliance schedules for the proposed BART and reasonable progress FIP emission limits.
- Provisions to ensure the coordination of the RAVI and regional haze LTS.

In lieu of our proposed FIP, or a portion thereof, we would propose approval of a SIP revision if the State submits such a revision and the revision matches the terms of our proposed FIP. We encourage the State to submit a SIP revision to replace the FIP, either before or after our final action.

## III. SIP and FIP Background

The CAA requires each state to develop plans to meet various air quality requirements, including protection of visibility. CAA sections 110(a), 169A, and 169B. The plans developed by a state are referred to as SIPs. A state must submit its SIPs and SIP revisions to us for approval. Once approved, a SIP is enforceable by EPA and citizens under the CAA, also known as being federally enforceable. If a state fails to make a required SIP submittal or if we find that a state's required submittal is incomplete or unapprovable, then we must promulgate a FIP to fill this regulatory gap. CAA section 110(c)(1). As discussed elsewhere in this notice, we are proposing to disapprove aspects of Wyoming's regional haze SIP. We are proposing FIPs to address the deficiencies in Wyoming's regional haze SIP.

## IV. Background

### *A. Regional Haze*

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles ($PM_{2.5}$) (e.g., sulfates, nitrates, organic carbon (OC), elemental carbon (EC), and soil dust), and their precursors (*e.g.,* sulfur dioxide ($SO_2$), $NO_X$, and in some cases, ammonia ($NH_3$) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form $PM_{2.5}$, which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, the ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national park and wilderness areas. The average visual range [1] in many Class I areas (i.e., national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100–150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range is less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. 64 FR 35715 (July 1, 1999).

### *B. Requirements of the CAA and EPA's Regional Haze Rule (RHR)*

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas [2] which impairment

[1] Visual range is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky.

[2] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C.

results from manmade air pollution.'' On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999. 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P. The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300–309. Some of the main elements of the regional haze requirements are summarized in section III of this preamble. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia and the Virgin Islands. 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.[3]

Few states submitted a regional haze SIP prior to the December 17, 2007 deadline, and on January 15, 2009, EPA found that 37 states (including Colorado), the District of Columbia, and the Virgin Islands, had failed to submit SIPs addressing the regional haze requirements. 74 FR 2392. Once EPA has found that a state has failed to make a required submission, EPA is required to promulgate a FIP within two years unless the state submits a SIP and the Agency approves it within the two-year period. CAA § 110(c)(1).

### *C. Roles of Agencies in Addressing Regional Haze*

Successful implementation of the regional haze program will require long-term regional coordination among states, tribal governments and various federal agencies. As noted above, pollution affecting the air quality in Class I areas can be transported over long distances, even hundreds of kilometers. Therefore, to effectively address the problem of visibility impairment in Class I areas, states need to develop strategies in coordination with one another, taking into account the effect of emissions from one jurisdiction on the air quality in another.

Because the pollutants that lead to regional haze can originate from sources located across broad geographic areas, EPA has encouraged the states and tribes across the United States to address visibility impairment from a regional perspective. Five regional planning organizations (RPOs) were developed to address regional haze and related issues. The RPOs first evaluated technical information to better understand how their states and tribes impact Class I areas across the country, and then pursued the development of regional strategies to reduce emissions of particulate matter (PM) and other pollutants leading to regional haze.

The Western Regional Air Partnership (WRAP) RPO is a collaborative effort of state governments, tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the western United States. WRAP member state governments include: Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Tribal members include Campo Band of Kumeyaay Indians, Confederated Salish and Kootenai Tribes, Cortina Indian Rancheria, Hopi Tribe, Hualapai Nation of the Grand Canyon, Native Village of Shungnak, Nez Perce Tribe, Northern Cheyenne Tribe, Pueblo of Acoma, Pueblo of San Felipe, and Shoshone-Bannock Tribes of Fort Hall.

## V. Requirements for Regional Haze SIPs

The following is a summary of the requirements of the RHR. See 40 CFR 51.308 for further detail regarding the requirements of the rule.

### *A. The CAA and the Regional Haze Rule*

Regional haze SIPs must assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas. Section 169A of the CAA and EPA's implementing regulations require states to establish long-term strategies for making reasonable progress toward meeting this goal. Implementation plans must also give specific attention to certain stationary sources that were in existence on August 7, 1977, but were not in operation before August 7, 1962, and require these sources, where appropriate, to install BART controls for the purpose of eliminating or reducing visibility impairment. The specific regional haze SIP requirements are discussed in further detail below.

### *B. Determination of Baseline, Natural, and Current Visibility Conditions*

The RHR establishes the deciview as the principal metric or unit for expressing visibility. *See* 70 FR 39104, 39118. This visibility metric expresses uniform changes in the degree of haze in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Visibility expressed in deciviews is determined by using air quality measurements to estimate light extinction and then transforming the value of light extinction using a logarithm function. The deciview is a more useful measure for tracking progress in improving visibility than light extinction itself because each deciview change is an equal incremental change in visibility perceived by the human eye. Most people can detect a change in visibility at one deciview.[4]

The deciview is used in expressing RPGs (which are interim visibility goals towards meeting the national visibility goal), defining baseline, current, and natural conditions, and tracking changes in visibility. The regional haze SIPs must contain measures that ensure ''reasonable progress'' toward the national goal of preventing and remedying visibility impairment in Class I areas caused by anthropogenic air pollution by reducing anthropogenic emissions that cause regional haze. The national goal is a return to natural conditions, i.e., anthropogenic sources of air pollution would no longer impair visibility in Class I areas.

7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

[3] EPA's regional haze regulations require subsequent updates to the regional haze SIPs. 40 CFR 51.308(g)–(i).

[4] The preamble to the RHR provides additional details about the dv. 64 FR 35714, 35725 (July 1, 1999).

To track changes in visibility over time at each of the 156 Class I areas covered by the visibility program (40 CFR 81.401–437), and as part of the process for determining reasonable progress, states must calculate the degree of existing visibility impairment at each Class I area at the time of each regional haze SIP submittal and periodically review progress every five years midway through each 10-year implementation period. To do this, the RHR requires states to determine the degree of impairment (in deciviews) for the average of the 20 percent least impaired (''best'') and 20 percent most impaired (''worst'') visibility days over a specified time period at each of their Class I areas. In addition, states must also develop an estimate of natural visibility conditions for the purpose of comparing progress toward the national goal. Natural visibility is determined by estimating the natural concentrations of pollutants that cause visibility impairment and then calculating total light extinction based on those estimates. We have provided guidance to states regarding how to calculate baseline, natural and current visibility conditions.[5]

For the first regional haze SIPs that were due by December 17, 2007, ''baseline visibility conditions'' were the starting points for assessing ''current'' visibility impairment. Baseline visibility conditions represent the degree of visibility impairment for the 20 percent least impaired days and 20 percent most impaired days for each calendar year from 2000 to 2004. Using monitoring data for 2000 through 2004, states are required to calculate the average degree of visibility impairment for each Class I area, based on the average of annual values over the five-year period. The comparison of initial baseline visibility conditions to natural visibility conditions indicates the amount of improvement necessary to attain natural visibility, while the future comparison of baseline conditions to the then current conditions will indicate the amount of progress made. In general, the 2000–2004 baseline period is considered the time from which improvement in visibility is measured.

[5] *Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule,* September 2003, EPA–454/B–03–005, *available* at *http://www.epa.gov/ttncaaa1/t1/memoranda/RegionalHaze_envcurhr_gd.pdf,* (hereinafter referred to as ''our 2003 Natural Visibility Guidance''); and *Guidance for Tracking Progress Under the Regional Haze Rule,* September 2003, EPA–454/B–03–004, *available* at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_tpurhr_gd.pdf,* (hereinafter referred to as our ''2003 Tracking Progress Guidance'').

*C. Determination of Reasonable Progress Goals*

The vehicle for ensuring continuing progress towards achieving the natural visibility goal is the submission of a series of regional haze SIPs from the states that establish two RPGs (i.e., two distinct goals, one for the ''best'' and one for the ''worst'' days) for every Class I area for each (approximately) 10-year implementation period. *See* 40 CFR 51.308(d), (f). The RHR does not mandate specific milestones or rates of progress, but instead calls for states to establish goals that provide for ''reasonable progress'' toward achieving natural visibility conditions. In setting RPGs, states must provide for an improvement in visibility for the most impaired days over the (approximately) 10-year period of the SIP, and ensure no degradation in visibility for the least impaired days over the same period. *Id.*

In establishing RPGs, states are required to consider the following factors established in section 169A of the CAA and in our RHR at 40 CFR 51.308(d)(1)(i)(A): (1) The costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of any potentially affected sources. States must demonstrate in their SIPs how these factors are considered when selecting the RPGs for the best and worst days for each applicable Class I area. In setting the RPGs, states must also consider the rate of progress needed to reach natural visibility conditions by 2064 (referred to as the ''uniform rate of progress'' (URP) or the ''glidepath'') and the emission reduction measures needed to achieve that rate of progress over the 10-year period of the SIP. Uniform progress towards achievement of natural conditions by the year 2064 represents a rate of progress, which states are to use for analytical comparison to the amount of progress they expect to achieve. In setting RPGs, each state with one or more Class I areas (''Class I state'') must also consult with potentially ''contributing states,'' *i.e.,* other nearby states with emission sources that may be affecting visibility impairment at the state's Class I areas. 40 CFR 51.308(d)(1)(iv). In determining whether a state's goals for visibility improvement provide for reasonable progress toward natural visibility conditions, EPA is required to evaluate the demonstrations developed by the state pursuant to paragraphs 40 CFR 51.308(d)(1)(i) and (d)(1)(ii). 40 CFR 51.308(d)(1)(iii).

*D. Best Available Retrofit Technology*

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources[6] built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' as determined by the state. Under the RHR, states are directed to conduct BART determinations for such ''BART-eligible'' sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART.

On July 6, 2005, EPA published the *Guidelines for BART Determinations Under the Regional Haze Rule* at appendix Y to 40 CFR part 51 (hereinafter referred to as the ''BART Guidelines'') to assist states in determining which of their sources should be subject to the BART requirements and in determining appropriate emission limits for each applicable source. 70 FR 39104. In making a BART determination for a fossil fuel-fired electric generating plant with a total generating capacity in excess of 750 megawatts (MW), a state must use the approach set forth in the BART Guidelines. A state is encouraged, but not required, to follow the BART Guidelines in making BART determinations for other types of sources. Regardless of source size or type, a state must meet the requirements of the CAA and our regulations for selection of BART, and the state's BART analysis and determination must be reasonable in light of the overarching purpose of the regional haze program.

The process of establishing BART emission limitations can be logically broken down into three steps: First, states identify those sources which meet the definition of ''BART-eligible source'' set forth in 40 CFR 51.301;[7] second,

[6] The set of ''major stationary sources'' potentially subject-to-BART is listed in CAA section 169A(g)(7).

[7] BART-eligible sources are those sources that have the potential to emit 250 tons or more of a visibility-impairing air pollutant, were not in

states determine which of such sources ''emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area'' (a source which fits this description is ''subject to BART''); and third, for each source subject-to-BART, states then identify the best available type and level of control for reducing emissions.

States must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility impairing pollutants are $SO_2$, $NO_X$, and PM. EPA has stated that states should use their best judgment in determining whether VOC or $NH_3$ compounds impair visibility in Class I areas.

Under the BART Guidelines, states may select an exemption threshold value for their BART modeling, below which a BART-eligible source would not be expected to cause or contribute to visibility impairment in any Class I area. The state must document this exemption threshold value in the SIP and must state the basis for its selection of that value. Any source with emissions that model above the threshold value would be subject to a BART determination review. The BART Guidelines acknowledge varying circumstances affecting different Class I areas. States should consider the number of emission sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts. Any exemption threshold set by the state should not be higher than 0.5 deciview. 40 CFR part 51, appendix Y, section III.A.1.

In their SIPs, states must identify the sources that are subject-to-BART and document their BART control determination analyses for such sources. In making their BART determinations, section 169A(g)(2) of the CAA requires that states consider the following factors when evaluating potential control technologies: (1) The costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

A regional haze SIP must include source-specific BART emission limits and compliance schedules for each source subject-to-BART. Once a state has made its BART determination, the BART controls must be installed and in operation as expeditiously as practicable, but no later than five years after the date of EPA approval of the regional haze SIP. CAA section 169(g)(4) and 40 CFR 51.308(e)(1)(iv). In addition to what is required by the RHR, general SIP requirements mandate that the SIP must also include all regulatory requirements related to monitoring, recordkeeping, and reporting for the BART controls on the source. See CAA section 110(a). As noted above, the RHR allows states to implement an alternative program in lieu of BART so long as the alternative program can be demonstrated to achieve greater reasonable progress toward the national visibility goal than would BART.

*E. Long-Term Strategy*

Consistent with the requirement in section 169A(b) of the CAA that states include in their regional haze SIP a 10 to 15 year strategy for making reasonable progress, section 51.308(d)(3) of the RHR requires that states include a LTS in their regional haze SIPs. The LTS is the compilation of all control measures a state will use during the implementation period of the specific SIP submittal to meet applicable RPGs. The LTS must include ''enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals'' for all Class I areas within, or affected by emissions from, the state. 40 CFR 51.308(d)(3).

When a state's emissions are reasonably anticipated to cause or contribute to visibility impairment in a Class I area located in another state, the RHR requires the impacted state to coordinate with the contributing states in order to develop coordinated emissions management strategies. 40 CFR 51.308(d)(3)(i). In such cases, the contributing state must demonstrate that it has included, in its SIP, all measures necessary to obtain its share of the emission reductions needed to meet the RPGs for the Class I area. *Id.* at (d)(3)(ii). The RPOs have provided forums for significant interstate consultation, but additional consultations between states may be required to sufficiently address interstate visibility issues. This is especially true where two states belong to different RPOs.

States should consider all types of anthropogenic sources of visibility impairment in developing their long-term strategy, including stationary, minor, mobile, and area sources. At a minimum, states must describe how each of the following seven factors listed below are taken into account in developing their LTS: (1) Emission reductions due to ongoing air pollution control programs, including measures to address RAVI; (2) measures to mitigate the impacts of construction activities; (3) emissions limitations and schedules for compliance to achieve the RPG; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the state for these purposes; (6) enforceability of emissions limitations and control measures; and (7) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the LTS. 40 CFR 51.308(d)(3)(v).

*F. Coordinating Regional Haze and Reasonably Attributable Visibility Impairment*

As part of the RHR, EPA revised 40 CFR 51.306(c) regarding the LTS for RAVI to require that the RAVI plan must provide for a periodic review and SIP revision not less frequently than every three years until the date of submission of the state's first plan addressing regional haze visibility impairment, which was due December 17, 2007, in accordance with 40 CFR 51.308(b) and (c). On or before this date, the state must revise its plan to provide for review and revision of a coordinated LTS for addressing RAVI and regional haze, and the state must submit the first such coordinated LTS with its first regional haze SIP. Future coordinated LTS's, and periodic progress reports evaluating progress towards RPGs, must be submitted consistent with the schedule for SIP submission and periodic progress reports set forth in 40 CFR 51.308(f) and 51.308(g), respectively. The periodic review of a state's LTS must report on both regional haze and RAVI impairment and must be submitted to EPA as a SIP revision.

*G. Monitoring Strategy and Other Implementation Plan Requirements*

Section 51.308(d)(4) of the RHR includes the requirement for a monitoring strategy for measuring, characterizing, and reporting of regional haze visibility impairment that is representative of all mandatory Class I Federal areas within the state. The strategy must be coordinated with the monitoring strategy required in section 51.305 for RAVI. Compliance with this requirement may be met through ''participation'' in the IMPROVE network, i.e., review and use of monitoring data from the network. The monitoring strategy is due with the first

operation prior to August 7, 1962, but were in existence on August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories. 40 CFR 51.301.

regional haze SIP, and it must be reviewed every five years. The monitoring strategy must also provide for additional monitoring sites if the IMPROVE network is not sufficient to determine whether RPGs will be met.

The SIP must also provide for the following:

- Procedures for using monitoring data and other information in a state with mandatory Class I areas to determine the contribution of emissions from within the state to regional haze visibility impairment at Class I areas both within and outside the state;
- Procedures for using monitoring data and other information in a state with no mandatory Class I areas to determine the contribution of emissions from within the state to regional haze visibility impairment at Class I areas in other states;
- Reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the state, and where possible, in electronic format;
- Developing a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area. The inventory must include emissions for a baseline year, emissions for the most recent year for which data are available, and estimates of future projected emissions. A state must also make a commitment to update the inventory periodically; and
- Other elements, including reporting, recordkeeping, and other measures necessary to assess and report on visibility.

The RHR requires control strategies to cover an initial implementation period extending to the year 2018, with a comprehensive reassessment and revision of those strategies, as appropriate, every 10 years thereafter. Periodic SIP revisions must meet the core requirements of section 51.308(d) with the exception of BART. The requirement to evaluate sources for BART applies only to the first regional haze SIP. Facilities subject-to-BART must continue to comply with the BART provisions of section 51.308(e), as noted above. Periodic SIP revisions will assure that the statutory requirement of reasonable progress will continue to be met.

*H. Consultation With States and Federal Land Managers (FLMs)*

The RHR requires that states consult with FLMs before adopting and submitting their SIPs. 40 CFR 51.308(i). States must provide FLMs an opportunity for consultation, in person and at least 60 days prior to holding any public hearing on the SIP. This consultation must include the opportunity for the FLMs to discuss their assessment of impairment of visibility in any Class I area and to offer recommendations on the development of the RPGs and on the development and implementation of strategies to address visibility impairment. Further, a state must include in its SIP a description of how it addressed any comments provided by the FLMs. Finally, a SIP must provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.

## VI. EPA's Evaluation of Wyoming's Regional Haze SIP

*A. Affected Class I Areas*

Pursuant to 40 CFR 51.308(d), the State identified seven mandatory Class I areas in Wyoming: Grand Teton National Park, Yellowstone National Park, Bridger Wilderness, Fitzpatrick Wilderness, North Absaroka Wilderness, Teton Wilderness, and Washakie Wilderness.

*B. Baseline Visibility, Natural Visibility, and Uniform Rate of Progress*

As required by 40 CFR 51.308(d)(2), Wyoming provided baseline visibility, natural visibility, and the URP for each Class I area in the State. Natural background visibility, as defined in our *2003 Natural Visibility Guidance,* is estimated by calculating the expected light extinction using default estimates of natural concentrations of fine particle components adjusted by site-specific estimates of humidity. This calculation uses the IMPROVE equation, which is a formula for estimating light extinction from the estimated natural concentrations of fine particle components (or from components measured by the IMPROVE monitors). As documented in our *2003 Natural Visibility Guidance,* EPA allows states to use ''refined'' or alternative approaches to this guidance to estimate the values that characterize the natural visibility conditions of Class I areas.

One alternative approach is to develop and justify the use of alternative estimates of natural concentrations of fine particle components. Another alternative is to use the ''new IMPROVE equation'' that was adopted for use by the IMPROVE Steering Committee in December 2005.[8] The purpose of this refinement to the ''old IMPROVE equation'' is to provide more accurate estimates of the various factors that affect the calculation of light extinction.

Wyoming used the new IMPROVE equation to calculate natural conditions and baseline visibility. The natural condition for each Class I area represents the visibility goal expressed in deciviews for the 20% worst days and the 20% best days that would exist if there were only naturally occurring visibility impairment. In accordance with 40 CFR 51.308(d)(2)(iii), the State calculated natural visibility conditions based on available monitoring information and appropriate data analysis techniques and in accordance with our *2003 Natural Visibility Guidance.* The State also calculated the number of deciviews by which baseline conditions exceed natural conditions at each of its Class I areas to meet the requirements of 40 CFR 51.308(d)(2)(iv)(A).

Wyoming established the baseline visibility for the best and worst visibility days for each Class I area based on data from the IMPROVE monitoring sites. Each IMPROVE monitor collects particulate concentration data which are converted into reconstructed light extinction through a complex calculation using the IMPROVE equation (see Chapter 13 of the SIP for more information on reconstructed light extinction and the IMPROVE equation). Per 40 CFR 51.308(d)(2)(i), the State calculated baseline visibility using a five-year average (2000 to 2004) of IMPROVE data for both the 20% best and 20% worst days. The State's baseline calculations were made in accordance with our *2003 Tracking Progress Guidance.*

Pursuant to 40 CFR 51.308(d)(1)(i)(B), the State calculated the URP for each of its Class I areas. For the 20% worst days, the URP is the calculation of the deciview reduction needed to achieve natural conditions by 2064. For the 20% worst days, the State calculated the URP

[8] The IMPROVE program is a cooperative measurement effort governed by a steering committee composed of representatives from Federal agencies (including representatives from EPA and the FLMs) and regional planning organizations. The IMPROVE monitoring program was established in 1985 to aid the creation of Federal and State implementation plans for the protection of visibility in Class I areas. One of the objectives of IMPROVE is to identify chemical species and emission sources responsible for existing anthropogenic visibility impairment. The IMPROVE program has also been a key participant in visibility-related research, including the advancement of monitoring instrumentation, analysis techniques, visibility modeling, policy formulation and source attribution field studies.

in deciviews per year using the following formula: URP = [Baseline Condition − Natural Condition]/60 years. In order to determine the uniform progress needed by 2018 to be on the path to achieving natural visibility conditions by 2064, the State multiplied the URP by the 14 years in the first planning period (2004–2018).

Table 1 shows the baseline visibility, natural conditions, and URP for each of the Class I areas. As indicated by the table, some Class I areas share a single monitor because of the proximity of the areas to each other.

TABLE 1—BASELINE VISIBILITY, NATURAL CONDITIONS, AND URP FOR WYOMING CLASS I AREAS

| 20% Worst days | | | | | | | 20% Best days |
|---|---|---|---|---|---|---|---|
| Wyoming class I areas | Monitor name | 2000–2004 Baseline (deciview) | 2018 URP (deciview) | Reduction needed to reach 2018 URP (delta deciview) | 2064 Natural conditions (deciview) | Delta baseline—2064 natural conditions | 2000–2004 Baseline (deciview) |
| Yellowstone National Park Grand Teton National Park Teton Wilderness. | YELL2 ... | 11.8 | 10.5 | 1.3 | 6.44 | 5.36 | 2.58 |
| North Absaroka Wilderness Washakie Wilderness. | NOABI ... | 11.5 | 10.4 | 1.1 | 6.83 | 4.67 | 2.0 |
| Bridger Wilderness Fitzpatrick Wilderness. | BRID1 .... | 11.1 | 10.0 | 1.1 | 6.45 | 4.65 | 2.1 |

We have reviewed Wyoming's baseline visibility, natural conditions, and URP. We find they have been calculated correctly and are proposing to approve them.

*C. BART Determinations*

BART is an element of Wyoming's LTS for the first implementation period. As discussed in more detail in section VI.D of this notice, the BART evaluation process consists of three components: (1) An identification of all the BART-eligible sources; (2) an assessment of whether those BART-eligible sources are in fact subject-to-BART; and (3) a determination of any BART controls. Wyoming addressed these steps as follows:

1. BART Eligible Sources

The first step of a BART evaluation is to identify all the BART-eligible sources within the state's boundaries. Wyoming identified the BART-eligible sources in Wyoming by utilizing the approach set out in the BART Guidelines (70 FR 39158). This approach provides three criteria for identifying BART-eligible sources: (1) One or more emission units at the facility fit within one of the 26 categories listed in the BART Guidelines; (2) the emission unit or units began operation on or after August 6, 1962, and were in existence on August 6, 1977; and (3) combined potential emissions of any visibility-impairing pollutant from the units that meet the criteria in (1) and (2) are 250 tons or more per year. Wyoming reviewed source permits and emission data from 2001–2003 to identify facilities in the BART source categories with potential emissions of 250 tons per year or more for any visibility-impairing pollutant from any unit or units that were in existence on August 7, 1977 and began operation on or after August 7, 1962. The BART Guidelines direct states to address $SO_2$,[9] $NO_X$, and direct PM (including both coarse particulate matter ($PM_{10}$) and $PM_{2.5}$) emissions as visibility-impairing pollutants and to exercise their ''best judgment to determine whether VOC or $NH_3$ emissions from a source are likely to have an impact on visibility in an area.'' (70 FR 39162).

The State analyzed the emissions from VOC and $NH_3$ from sources in the State and eliminated them from further consideration for BART controls. The State evaluated the BART-eligible sources and determined emissions of VOC and $NH_3$ were negligible. Thus, the State has eliminated VOC and $NH_3$ from further consideration for BART controls.

We have reviewed this information and propose to accept this determination.

The State determined the following were BART-eligible sources: PacifiCorp Jim Bridger, P4 Production, PacifiCorp Naughton, OCI Wyoming, FMC Granger, Dyno Nobel, FMC Westvaco, Sinclair Casper Refinery, Basin Electric Laramie River, Black Hills Neil Simpson 1, PacifiCorp Wyodak, Sinclair—Sinclair Refinery, PacifiCorp Dave Johnston, and General Chemical Green River.

We have reviewed this information and propose to accept this determination.

2. Sources Subject-to-BART

The second step of the BART evaluation is to identify those BART-eligible sources that may reasonably be anticipated to cause or contribute to any visibility impairment at any Class I area, i.e., those sources that are subject-to-BART. The BART Guidelines allow States to consider exempting some BART-eligible sources from further BART review because they may not reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area. Consistent with the BART Guidelines, Wyoming performed dispersion modeling on the BART-eligible sources to assess the extent of their contribution to visibility impairment at surrounding Class I areas.

a. Modeling Methodology

The BART Guidelines provide that states may use the CALPUFF[10] modeling system or another appropriate model to predict the visibility impacts from a single source on a Class I area and to, therefore, determine whether an individual source is anticipated to cause

[9] Wyoming has elected to submit its RH SIP pursuant to the requirements of 40 CFR 51.309. For states electing to submit under section 309, States do not have to do a BART analysis for $SO_2$. $SO_2$ controls are included in the backstop trading program under 40 CFR 51.309(d)(4).

[10] Note that our reference to CALPUFF encompasses the entire CALPUFF modeling system, which includes the CALMET, CALPUFF, and CALPOST models and other pre and post processors. The different versions of CALPUFF have corresponding versions of CALMET, CALPOST, etc. which may not be compatible with previous versions (e.g., the output from a newer version of CALMET may not be compatible with an older version of CALPUFF). The different versions of the CALPUFF modeling system are available from the model developer at *http://www.src.com/verio/download/download.htm.*

or contribute to impairment of visibility in Class I areas, i.e., ''is subject to BART.'' The Guidelines state that CALPUFF is the best regulatory modeling application currently available for predicting a single source's contribution to visibility impairment (70 FR 39162).

The BART Guidelines also recommend that States develop a modeling protocol for making individual source attributions, and suggest that states may want to consult with EPA and their RPO to address any issues prior to modeling. Wyoming used the CALPUFF model for Wyoming BART sources in accordance with a protocol it developed titled *BART Air Modeling Protocol Individual Source Visibility Impairment Analysis,* March 2006, which was approved by EPA and is included in Chapter 6 of the State's TSD. The Wyoming protocol follows recommendations for long-range transport described in appendix W to 40 CFR part 51, *Guideline on Air Quality Models,* and in EPA's *Interagency Workgroup on Air Quality Modeling (IWAQM) Phase 2 Summary Report and Recommendations for Modeling Long-Range Transport Impacts* as recommended by the BART Guidelines. (40 CFR part 51, appendix Y, section III.A.3). To determine if each BART-eligible source has a significant impact on visibility, Wyoming used the CALPUFF model to estimate daily visibility impacts above estimated natural conditions at each Class I area within 300 km of any BART-eligible facility, based on maximum actual 24-hour emissions over a three year period (2001–2003).

b. Contribution Threshold

For States using modeling to determine the applicability of BART to single sources, the BART Guidelines note that the first step is to set a contribution threshold to assess whether the impact of a single source is sufficient to cause or contribute to visibility impairment at a Class I area. The BART Guidelines state that, ''[a] single source that is responsible for a 1.0 deciview change or more should be considered to 'cause' visibility impairment.'' (70 FR 39104, 39161). The BART Guidelines also state that ''the appropriate threshold for determining whether a source contributes to visibility impairment may reasonably differ across States,'' but, ''[a]s a general matter, any threshold that you use for determining whether a source ''contributes'' to visibility impairment should not be higher than 0.5 deciviews.'' *Id.* Further, in setting a contribution threshold, States should ''consider the number of emissions sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts.'' The Guidelines affirm that States are free to use a lower threshold if they conclude that the location of a large number of BART-eligible sources in proximity to a Class I area justifies this approach.

Wyoming used a contribution threshold of 0.5 deciviews for determining which sources are subject-to-BART. By using a contribution threshold of 0.5 deciviews, Wyoming exempted seven of the fourteen BART-eligible sources in the State from further review under the BART requirements. Based on the modeling results, the State determined that P4 Production, FMC Granger,[11] and OCI Wyoming had an impact of .07 deciview, 0.39 deciview, and 0.07 deciview, respectively, at Bridger Wilderness. Black Hills Neil Simpson 1, Sinclair Casper Refinery, and Sinclair—Sinclair Refinery have an impact of 0.27 deciview, 0.06 deciview, and 0.12 deciview, respectively, at Wind Cave. Dyno-Nobel had an impact of 0.22 deciview at Rocky Mountain National Park. These sources' modeled visibility impacts fell below the State's threshold of 0.5 deciview and were determined not to be subject-to-BART.[12] Given the relatively limited impact on visibility from these seven sources, we propose to agree with Wyoming that 0.5 deciviews is a reasonable threshold for determining whether its BART-eligible sources are subject-to-BART.

Because our recommended modeling approach already incorporates choices that tend to lower peak daily visibility impact values,[13] our BART Guidelines state that a State should compare the 98th percentile (as opposed to the 90th or lower percentile) of CALPUFF modeling results against the ''contribution'' threshold established by the State for purposes of determining BART applicability. Wyoming used a 98th percentile comparison that we find appropriate. Further explanation on use of the 98th versus 90th percentile value is provided at 70 FR 39121.

c. Sources Identified by Wyoming as Subject-to-BART

Table 2 shows the sources identified by the State as subject-to-BART and the results of the CALPUFF modeling.

TABLE 2—WYOMING SUBJECT-TO-BART SOURCES AND CALPUFF MODELING RESULTS

| Facility name | Subject-to-BART units | State modeling results—98th percentile delta-deciview |
|---|---|---|
| PacifiCorp—Jim Bridger | Units 1–4 | 3.1 |
| Basin Electric—Laramie River | Units 1, 2 and 3 | 3.68 |
| PacifiCorp—Dave Johnston | Units 3 and 4 | 3.30 |
| PacifiCorp—Naughton | Units 1–3 | 4.36 |
| PacifiCorp—Wyodak | Unit 1 | 1.66 |
| FMC—Westvaco | Units NS–1A and NS–1B | 1.3 |
| General Chemical—Green River | Boilers C and D | 1.36 |

[11] The State of Wyoming performed a refined CALPUFF visibility modeling analysis for the two BART-eligible units at the FMC Wyoming Granger Facility and demonstrated that the predicted 98th percentile impacts at Bridger Wilderness Area and Fitzpatrick Wilderness Area would be below 0.5 dv for all meteorological periods modeled. This modeling used higher-resolution meteorological data as compared to the data used by the State for the initial screening modeling that identified the facility as subject-to-BART.

[12] CALPUFF modeling results, which provide the maximum change in visibility are summarized in the *WY BART Screening Analysis Results* and the *WY BART Screening Analysis Results DV Frequency,* which can also be found in Chapter 6 of the State's TSD.

[13] See our BART Guidelines, Section III.A.3.

We are proposing to approve the State's determination of the subject-to-BART sources.

3. BART Determinations and Federally Enforceable Limits

The third step of a BART evaluation is to perform the BART analysis. The BART Guidelines (70 FR 39164) describe the BART analysis as consisting of the following five steps:

- Step 1: Identify All Available Retrofit Control Technologies;
- Step 2: Eliminate Technically Infeasible Options;
- Step 3: Evaluate Control Effectiveness of Remaining Control Technologies;
- Step 4: Evaluate Impacts and Document the Results; and
- Step 5: Evaluate Visibility Impacts.

In determining BART, the State must consider the five statutory factors in section 169A of the CAA: (1) The costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. *See also* 40 CFR 51.308(e)(1)(ii)(A). The five-factor analysis occurs during steps 4 and 5 of the BART analysis.

We find that Wyoming considered all five steps above in its BART determinations, but we find that its consideration of visibility improvement was inadequate, as explained below.

a. Visibility Improvement Modeling

The BART Guidelines provide that states may use the CALPUFF modeling system or another appropriate model to determine the visibility improvement expected at a Class I area from potential BART control technologies applied to the source. The BART Guidelines also recommend that states develop a modeling protocol for modeling visibility improvement, and suggest that states may want to consult with EPA and their RPO to address any issues prior to modeling. Wyoming developed a modeling protocol titled *BART Air Modeling Protocol Individual Source Visibility Assessments for BART Control Analyses,* September 2006, for sources to use when they performed their BART analysis (see Chapter 6 of the State's TSD). The Wyoming protocol follows recommendations for long-range transport described in appendix W to 40 CFR part 51, *Guideline on Air Quality Models,* and in EPA's *Interagency Workgroup on Air Quality Modeling (IWAQM) Phase 2 Summary Report and Recommendations for Modeling Long Range Transport Impacts,* as recommended by the BART Guidelines (40 CFR part 51, appendix Y, section III.D.5).

For the subject-to-BART PacifiCorp sources, the State's analyses provide visibility improvement modeling results that combine the visibility improvement from $NO_X$, PM, and $SO_2$ control options.[14] From the State's modeling results, EPA could not ascertain what the visibility improvement would be from an individual $NO_X$ or PM control option. For Basin Electric's Laramie River Station, the State did not provide the visibility improvement for the SNCR control option or for PM controls. While we are able to propose approval of the State's PM BART determinations without having additional visibility improvement modeling for PM controls, as discussed below, additional visibility improvement modeling to address the $NO_X$ BART controls was needed and subsequently performed by EPA.[15]

b. Summary of BART Determinations and Federally Enforceable Limits

For the subject-to-BART sources, the State provided BART analyses, as well as additional technical information and materials, in Attachment A to the SIP. Chapter 6 of the SIP provides a summary of the five-factor analyses. As noted above, EPA performed the $NO_X$ visibility improvement modeling for the control technology options analyzed for the subject-to-BART PacifiCorp sources.[16] EPA also performed modeling for the visibility improvement SNCR for Basin Electric Laramie River Units 1, 2, and 3. In addition, Wyoming did not provide control efficiencies in their BART analysis for PM and $NO_X$ BART controls for the PacifiCorp sources nor did the State provide analysis for $NO_X$ BART controls for Basin Electric Laramie River Units 1, 2, and 3. Therefore, EPA calculated the control efficiencies shown for the PM and $NO_X$ BART controls for the PacifiCorp sources and $NO_X$ BART controls for Basin Electric from the emission reductions reported by Wyoming in Chapter 6.5 and Appendix A of their SIP.

EPA is proposing to approve the State's BART determinations for the following: $NO_X$ and PM BART for FMC Westvaco Unit NS–1A and NS–1B; $NO_X$ and PM BART for General Chemical Green River Boiler C and Boiler D; PM BART for Basin Electric Laramie River Units 1, 2, and 3; PM BART for PacifiCorp Dave Johnston Unit 3; $NO_X$ and PM BART for PacifiCorp Dave Johnston Unit 4; PM BART for PacifiCorp Jim Bridger Unit 1 and Unit 2; $NO_X$ and PM BART (including LTS controls) for PacifiCorp Jim Bridger Unit 3 and Unit 4; $NO_X$ and PM BART for PacifiCorp Naughton Units 1, 2, and 3; PM BART for PacifiCorp Wyodak Unit 1. A summary of the BART determination for each source is provided below.

EPA is proposing to disapprove the State's $NO_X$ BART determinations, and we are proposing to issue a BART FIP, for the following units: PacifiCorp Dave Johnston Unit 3; PacifiCorp Jim Bridger Units 1 and 2; PacifiCorp Wyodak Unit 1; and Basin Electric Laramie River Units 1, 2, and 3. EPA's rationale for disapproving the State's BART determinations for these units, as well as EPA's BART FIP determinations and emission limits can be found in section VII.A of this notice.

i. FMC Westvaco—Units NS–1A and NS–1B

Background

FMC's Westvaco facility is a trona mine and sodium products plant located in Sweetwater County, Wyoming. FMC Westvaco has two existing coal-fired boilers, Unit NS–1A and Unit NS–1B, that are subject to BART. Unit NS–1A and Unit NS–1B each have a design heat input rate of 887 MMBtu/hr and were constructed in 1975. They are both wall-fired, wet-bottom boilers burning subbituminous coal. The State's BART determination can be found in Chapter 6.5.2 and Attachment A of the SIP.

$NO_X$ BART Determination

Units NS–1A and NS–1B are currently controlled with combustion air control with a permit limit of 0.7 lb/MMBtu (3-hour rolling average). The State determined that low $NO_X$ burners (LNBs) and overfired air (OFA), LNBs and OFA with selective non-catalytic reduction (SNCR), and LNBs and OFA with selective catalytic reduction (SCR) were technically feasible for reducing $NO_X$ emissions at Unit NS–1A and NS–1B. The State did not identify any technically infeasible options. The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this

[14] Per the BART Guidelines, States must use CALPUFF, or other appropriate dispersion model to determine the visibility improvement expected at a Class I area from the potential BART control technology applied to the source. 70 FR 39170.

[15] A summary of EPA's modeling methodology and results can be found in the docket under *EPA BART and RP Modeling for Wyoming Sources.*

[16] The cumulative visibility impact will be higher than the 98th percentile impact that is shown in the BART summary tables.

source. A summary of the State's $NO_X$ BART analysis and the visibility impacts is provided in Table 3. Baseline $NO_X$ emissions are 2,719.5 tpy for each unit based on a heat input rate of 887 MMBtu/hr and 8,760 hours of operation per year.

TABLE 3—SUMMARY OF FMC WESTVACO UNIT NS–1A AND UNIT NS–1B $NO_X$ BART ANALYSIS*

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (Delta dv for the maximum 98th percentile impact at Bridger Wilderness Area) |
|---|---|---|---|---|---|---|
| LNB + SOFA | 50 | 0.35 | 1,359.7 | $413,145 | $304 | 0.13 |
| LNB + SOFA + SNCR | 70 | 0.21 | 1,903.6 | 1,281,851 | 673 | 0.19 |
| LNB + SOFA + SCR | 85 | 0.10 | 2,331.0 | 1,281,851 | 3,493 | 0.24 |

*This table reflects the costs and visibility improvements per boiler.

Incremental cost effectiveness for the controls evaluated is as follows: LNB plus SOFA and SNCR: $1,597/ton, and LNB plus SOFA and SCR: $16,051/ton.[17]

Based on its consideration of the five factors, the State determined that LNBs plus OFA are reasonable for BART. The State determined that the other control options were not reasonable based on the cost effectiveness and associated visibility improvement. The State has determined that $NO_X$ BART emission limits for FMC Westvaco Unit NS–1A and Unit MS–1B are 0.35 lb/MMBtu (30-day rolling average), 284 lb/hr (30-day rolling average), and 1,244 tpy.

We agree with the State's conclusions, and we are proposing to approve its $NO_X$ BART determinations for FMC Westvaco Unit NS–1A and Unit NS–1B.

PM BART Determination

Unit NS–1A and Unit NS–1B are currently controlled for PM emissions by electrostatic precipitators (ESPs). The units currently have a PM emission limit of 0.05 lb/MMBtu. The State determined that fabric filters on the wet scrubber, addition of an ESP downstream of the wet scrubber, and replacement of the ESPs with fabric filters were technically feasible control options. The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's PM BART analysis is provided in Table 4 below. Baseline PM emissions are 197 tpy for each unit based on a heat input rate of 887 MMBtu/hr and 8,760 hours of operation per year.

TABLE 4—SUMMARY OF FMC WESTVACO UNIT NS–1A AND UNIT NS–1B PM BART ANALYSIS*

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) |
|---|---|---|---|---|---|
| Fabric Filter on Wet Scrubber | 21.4 | 0.04 | 41.7 | $1,791,364 | $42,948 |
| ESP after Wet Scrubber | 63.3 | 0.019 | 123.3 | 3,507,617 | 28,448 |
| Replace ESP with Fabric Filter | 71.3 | 0.015 | 138.8 | 4,116,036 | 29,654 |

*This table reflects the costs and visibility improvements per boiler.

Given the high cost of controls, which are higher than what EPA, or other states have considered reasonable for PM, FMC did not evaluate the visibility improvement that would result from the PM controls evaluated. Previous visibility modeling analyses from the source indicate that the contribution in visibility degradation from PM is minor when compared to the contributing effects of $NO_X$ and $SO_2$. Results from FMC's visibility modeling screening and analysis confirm this conclusion and are discussed in further detail within the comprehensive visibility analysis included as part of FMC's BART application (see Attachment A to the SIP). The State agreed with FMC's conclusions and did not require FMC to perform additional visibility analyses for the PM control options.

The State determined that the current ESP control was reasonable for PM BART. The State rejected other controls as being reasonable for BART because of the high cost effectiveness. The State has determined that the PM BART emission limits for FMC Westvaco Unit NS–1A and NS–1B are 0.05 lb/MMBtu, 45.0 lb/hr, and 197 tpy.

We agree with the State's conclusions, and we are proposing to approve its PM BART determinations for FMC Westvaco Unit NS–1A and Unit NS–1B.

ii. General Chemical Green River—Boilers C and D

General Chemical Green River is a trona mine and sodium products plant. General Chemical's two existing coal-fired boilers, C and D, are co-located at the facility power plant. Both boilers burn low sulfur bituminous coal, and they supply power and process steam to mining and ore processing operations. Both boilers are tangentially fired using in-line coal pulverizers. The firing rate for Boiler C is 534 MMBtu/hr and 880 MMBtu/hr for Boiler D. The State's BART determination can be found in Chapter 6.5.3 and Attachment A of the SIP.

[17] Incremental cost effectiveness for each option is the difference in total annual costs between that option and the next most stringent option, divided by the difference in emissions, after controls have been applied, between those two control options.

$NO_X$ BART Determination

Boiler C and Boiler D are currently controlled with LNBs plus OFA with a permit limit of 0.7 lb/MMBtu (3-hour rolling average). On August 7, 2009, the State issued a BART permit to General Chemical that required the source to meet a $NO_X$ emission limit of 0.32 lb/MMBtu (30-day rolling average) for Boiler C and Boiler D. The State assumed the source could meet this emission limit with the installation and operation of new LNBs with the existing OFA. Upon further investigation, the source determined it could not meet a limit of 0.32 lbs/MMBtu with new LNBs and the existing OFA.

In response to the additional information from the source, the State reexamined its BART determination for Boiler C and D. The State determined that installing SOFA in addition to the existing LNBs and OFA could achieve an emission limit of 0.28 lb/MMBtu. Since SOFA in conjunction with the existing $NO_X$ controls could achieve better emission reductions than new LNBs plus OFA, the State eliminated the latter from further consideration in the BART analysis. The State determined SNCR and SCR were also technically feasible. The State did not identify any technically infeasible options.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's $NO_X$ BART analysis and visibility impacts is provided in Tables 5 and 6 below. Baseline $NO_X$ emissions are 1,167 tpy for Boiler C and 1,816 tpy for Boiler D based on an average of 2001–2003 actual emissions.

TABLE 5—SUMMARY OF GENERAL CHEMICAL—GREEN RIVER BOILER C $NO_X$ BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (Delta dv for the maximum 98th percentile impact at Bridger Wilderness Area) |
|---|---|---|---|---|---|---|
| Existing LNBs with SOFA | 44 | 0.28 | 512 | $757,711 | $1,480 | 0.05 |
| SNCR | 50 | 0.35 | 584 | 1,433,720 | 2,455 | 0.08 |
| SCR | 80 | 0.14 | 934 | 2,434,809 | 2,607 | 0.14 |

Incremental cost effectiveness for the control technologies evaluated is as follows: SNCR: $4,782/ton, and SCR: $3,156/ton.

TABLE 6—SUMMARY OF GENERAL CHEMICAL—GREEN RIVER BOILER D $NO_X$ BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (Delta dv for the maximum 98th percentile impact at Bridger Wilderness Area) |
|---|---|---|---|---|---|---|
| Existing LNBs with SOFA | 41 | 0.28 | 737 | $943,549 | $1,280 | 0.07 |
| SNCR | 50 | 0.35 | 908 | 1,486,581 | 3,176 | 0.12 |
| SCR | 80 | 0.14 | 1,453 | 3,399,266 | 3,510 | 0.17 |

Incremental cost effectiveness for the control technologies evaluated is as follows: SNCR: $2,913/ton, and SCR: $4,342/ton.

Based on its consideration of the five factors, the State determined that $NO_X$ BART is the existing LNBs with new SOFA, or a comparable performing technology. The State determined that SNCR and SCR were not reasonable based on the high cost effectiveness and low visibility improvement. The State determined the $NO_X$ BART emission limits for General Chemical Green River Boiler C are 0.28 lb/MMBtu (30-day rolling average), 149.5 lb/hr (30-day rolling average) and 654.9 tpy, and that the $NO_X$ BART emission limits for Boiler D are 0.28 lb/MMBtu (30-day rolling average), 246.4 lb/hr (30-day rolling average) and 1,079.2 tpy.

We agree with the State's conclusions, and we are proposing to approve its $NO_X$ BART determinations for General Chemical Green River—Boiler C and D.

PM BART Determination

Boiler C and D are currently controlled by ESPs with a permit limit of 50 lb/hr and 80 lb/hr, respectively. General Chemical addressed PM emissions through an abbreviated analysis by using PM BART information from FMC Westvaco, as discussed above. The facilities are similar in size and located about ten miles apart. Baseline PM emissions for Boiler C are 98 tpy and 161 tpy for Boiler D based on the average of 2001–2003 actual emissions. As discussed above, visibility modeling screening and analyses for FMC Westvaco indicate that the contribution in visibility degradation from PM for a source comparable to Boiler C and Boiler D is minor. Additionally, costs for controlling PM from similar boilers are high as indicated by FMC analysis for Westvaco.

The State accepted General Chemical's abbreviated PM BART analysis. The State determined that the current ESP control was reasonable for PM BART. The State rejected other controls as being reasonable for BART because of the high cost effectiveness. The State determined that the PM BART emission limits for Boiler C are 0.09 lb/MMBtu, 50 lb/hr, and 219 tpy, and that the PM BART emissions limits for Boiler D are 0.09 lb/MMBtu, 80 lb/hr, and 350.4 tpy.

We agree with the State's conclusions, and we are proposing to approve its PM BART determination for General Chemical Green River Boiler C and D.

iii. Basin Electric Laramie River Station—Units 1–3

Basin Electric Laramie River Station is located in Platte County, Wyoming. Laramie River Station is comprised of three 550-MW dry-bottom, wall-fired boilers (Units 1, 2, and 3) burning subbituminous coal for a total net generating capacity of 1,650 MW. All three units are subject-to-BART. The State's BART determination can be found in Chapter 6.5.8 and Attachment A of the SIP (The NOx BART analysis is discussed in section VII.A of this notice).

PM BART Determination

Laramie River Units 1, 2, and 3 are currently controlled with ESPs with a permit limit of 0.03 lb/MMBtu. The State determined that fabric filters were technically feasible for Unit 3 but not Units 1 and 2. Units 1 and 2 are controlled with wet flue gas desulfurization and fabric filters cannot be used downstream of such a system. The State determined that flue gas treatment and GE Max-9 hybrid were technically infeasible for all three units. Thus, the only technically feasible control option for PM is fabric filters on Unit 3.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's PM BART analysis for Unit 3 is provided in Table 7 below. Baseline PM emissions are 716 tpy for the unit based on 2001–2003 actual emissions.

TABLE 7—SUMMARY OF BASIN ELECTRIC LARAMIE RIVER UNIT 3 PM BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) |
|---|---|---|---|---|---|
| Fabric Filter—Peak Rate for Lost Generating Costs | 50 | 0.015 | 358 | $194,809,000 | $54,707 |
| Fabric Filter Non-Peak Rate for Lost Generating Costs | 50 | 0.015 | 358 | 134,934,000 | 40,156 |

The State did not provide visibility improvement modeling for fabric filters, but EPA is proposing to conclude this is reasonable based on the high cost effectiveness of fabric filters at each of the units, which is higher than EPA or other state have considered reasonable for PM BART.

Based on its consideration of the five factors, the State determined that the current ESPs are reasonable for PM BART, as fabric filters on Unit 3 are not cost-effective and there are no other technically feasible controls for Units 1 and 2. The State determined the PM BART emission limits for Laramie River Unit 1 and Unit 2 are 0.03 lb/MMBtu, 193 lb/hr, and 844 tpy, and the PM BART emission limits for Laramie River Unit 3 are 0.03 lb/MMBtu, 198 lb/hr, and 867 tpy.

We agree with the State's conclusions, and we are proposing to approve its PM BART determination for Basin Electric Laramie River Units 1, 2, and 3.

iv. PacifiCorp Dave Johnston—Units 3 and 4

Background

PacifiCorp Dave Johnston power plant is located in Converse County, Wyoming. Dave Johnston Power Plant is comprised of four units burning pulverized subbituminous Powder River Basin coal. Units 3 and 4 are the only units subject-to-BART. Dave Johnston Unit 3 is a nominal 230-MW pulverized coal-fired boiler that commenced service in 1964. It is equipped with burners in a cell configuration. Dave Johnston Unit 4 is a nominal 330-MW pulverized coal-fired boiler that commenced service in 1972. It is a tangential-fired boiler. The State's BART analysis can be found in Chapter 6.5.5 and Appendix A of the SIP (The $NO_X$ BART determination for Dave Johnston Unit 3 is discussed in section VII.A of this notice).

$NO_X$ BART Determination for Unit 4

Unit 4 is currently controlled with LNBs that were placed in operation in 1976. The State determined LNBs with advanced OFA, LNBs with advanced OFA and SNCR, and LNBs with advanced OFA and SCR were technically feasible for controlling $NO_X$ emissions for Unit 4. The State did not identify any technically infeasible controls.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. Baseline $NO_X$ emissions are 8,566 tpy for Unit 4 based on unit heat input rate of 2,500 MMBtu/hr and 7,884 hours of operation. A summary of the State's $NO_X$ BART analysis and the visibility impacts is provided in Table 8 below.

TABLE 8—SUMMARY OF DAVE JOHNSTON UNIT 4 $NO_X$ BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (delta deciview for the maximum 98th percentile impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| LNB with advanced OFA | 71.7 | 0.15 | 6,142 | $841,527 | $137 | 0.71 |
| New LNB with advanced OFA and SNCR | 77.4 | 0.12 | 6,626 | $2,141,786 | $323 | 0.80 |
| LNB with advanced OFA and SCR | 86.8 | 0.07 | 7,435 | $16,430,528 | $2,210 | 0.97 |

Incremental costs for the controls evaluated are as follows: New LNB with advanced OFA and SNCR: $2,686/ton; and LNB with advanced OFA and SCR: $17,662/ton.

Based on its consideration of the five factors, the State determined LNBs with advanced OFA was reasonable for $NO_X$ BART for Dave Johnston Unit 4. The State determined the $NO_X$ BART emission limits for Unit 4 are 0.15 lb/MMBtu (30-day rolling average), 615 lb/hr (30-day rolling average), and 2,694 tpy.

We find it is reasonable for the State to eliminate higher performing control options (i.e., LNBs with advanced OFA plus SNCR and LNBs with advanced OFA plus SCR). The incremental cost effectiveness of achieving 0.07 lb/MMBTU with SCR over achieving 0.15 lb/MMBTU with LNBs is $17,662, with a 0.26 delta deciview visibility improvement. The incremental cost effectiveness of SNCR over LNBs is $2,686 with an incremental visibility improvement of 0.09.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we agree with the State's conclusions, and we are proposing to approve its $NO_X$ BART determination for PacifiCorp Dave Johnston Unit 4.

PM BART Determination

Units 3 and 4 are currently controlled with fabric filters installed in 2008 with an emission limit of 0.015 lb/MMBtu. The State determined that fabric filters represent the most stringent PM control technology and that 0.015 lb/MMBtu represents the most stringent emission limit. Consistent with the BART Guidelines, the State did not provide a five-factor analysis because the State determined BART to be the most stringent control technology and limit (70 FR 39165). The State determined that the PM BART emission limits for Unit 3 are 0.015 lb/MMBtu, 42.1 lb/hr, and 184 tpy and the PM BART emission limits for Unit 4 are 0.015 lb/MMBtu (30-day rolling average), 61.5 lb/hr, and 269 tpy.

We agree with the State's conclusions, and we are proposing to approve its PM BART determination for Dave Johnston Units 3 and 4.

v. PacifiCorp Jim Bridger—Units 1–4

Background

PacifiCorp's Jim Bridger Power Plant is located in Sweetwater County, Wyoming. Jim Bridger is comprised of four identically sized nominal 530 MW tangentially fired boilers burning pulverized coal for a total net generating capacity of 2,120 MW. Jim Bridger Unit 1 was placed in service in 1974, Unit 2 in 1975, Unit 3 in 1976, and Unit 4 in 1979. The State's BART determination can be found in Chapter 6.5.4 and Appendix A of the SIP (The $NO_X$ BART determination for Jim Bridger Units 1 and 2 is discussed in section VII.A of this notice).

$NO_X$ BART Determination for Jim Bridger Units 3 and 4

PacifiCorp Jim Bridger Units 3 and 4 are equipped with early generation LNBs with a permit limit of 0.70 lb/MMBtu (3-hour fixed). The State determined that LNBs with SOFA, LNBs with SOFA plus SNCR, and LNBs with SOFA plus SCR were technically feasible for controlling $NO_X$ emissions. The State did not identify any technically infeasible options.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. Baseline $NO_X$ emissions are 10,643 tons for both units based on unit heat input rate of 6,000 MMBtu/hr and 7,884 hours of operation. A summary of the State's $NO_X$ BART analysis and the visibility impacts is provided in Table 9 below.

TABLE 9—SUMMARY OF JIM BRIDGER UNITS 3 AND 4 $NO_X$ BART ANALYSIS—COSTS PER BOILER

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (delta deciview for the maximum 98th percentile impact at Mt. Zirkel Wilderness)-units 3/4 [18] |
|---|---|---|---|---|---|---|
| LNB with SOFA | 42.2 | 0.26 | 4,493 | $1,144,969 | $255 | 0.41/0.47 |
| New LNB with SOFA and SNCR | 55.6 | 0.20 | 5,913 | 2,710.801 | 459 | 0.53/0.62 |
| LNB with SOFA and SCR | 84.4 | 0.07 | 8,987 | 20,296,400 | 2,258 | 0.80/0.82 |

Incremental cost effectiveness for the control evaluated is as follows: New LNB with SOFA and SNCR: $1,103/ton, and LNB with SOFA and SCR: $5,721/ton.

The State determined the cost of compliance was high for SCR. The State determined that LNBs with SOFA were reasonable for $NO_X$ BART for Jim Bridger Units 3 and 4. The State determined the $NO_X$ BART emission limits for Jim Bridger Units 3 and 4 are 0.26 lb/MMBtu (30-day rolling average), 1,560 lb/hr (30-day average), and 6,833 tpy.

The State is requiring PacifiCorp to install additional controls under its LTS. The State determined that based on the cost of compliance and visibility improvement presented by PacifiCorp in the BART applications for Jim Bridger Units 3 and 4 and taking into consideration the logistical challenge of managing multiple pollution control installations within the regulatory time allotted for installation of BART by the RHR, additional controls would be required under the LTS but not BART (see Chapter 8.3.3 of the SIP). With respect to Jim Bridger Units 3 and 4, the State has required PacifiCorp to install SCR, or other $NO_X$ control systems, to achieve an emission limit or otherwise reduce $NO_X$ emissions to achieve a 0.07 lb/MMBtu 30-day rolling average $NO_X$ emissions rate. PacifiCorp is required to meet the 0.07 lb/MMBtu emission rate on Unit 3 prior to December 31, 2015 and on Unit 4 prior to December 31, 2016.

EPA does not agree with the State's conclusion that a limit of 0.26 lb/MMBtu is reasonable for BART for Jim Bridger Units 3 and 4, which can be achieved with the installation and

[18] Unit 4 has different modeling results as the stack parameters used in the modeling are different enough from Units 1-3 to yield different modeled results.

operation on LNBs with SOFA. In particular, the cost effectiveness values for LNBs with SOFA plus SCR at each unit is $2,258 with approximately 0.80 delta deciview visibility improvement. The cost effectiveness values are reasonable and the visibility improvement significant for LNBs with SOFA plus SCR. In addition, the costs are within the range that Wyoming, other states, and we have considered reasonable in the BART context.[19] LNBs with SOFA plus SCR would result in an additional reduction of 4,474 tpy of $NO_X$ emissions at each unit. This difference is substantial. We find that it was unreasonable for the State not to determine that LNBs with SOFA plus SCR was $NO_X$ BART for Jim Bridger Units 3 and 4.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we propose to find it reasonable that NOx BART for Jim Bridger Units 3 and 4 is LNBs with SOFA plus SCR at an emission limit of 0.07 lb/MMBtu. Though we do not agree with the State's BART determination, the State is requiring PacifiCorp to install controls as part of the LTS that are equivalent to what EPA's is proposing to determine is reasonable for BART. The State is requiring PacifiCorp to install the LTS controls within the timeline that BART controls would have to be installed pursuant to 40 CFR 51.308(e)(iv). Thus, we are proposing to approve the State's compliance schedule and emission limit of 0.07 lb/MMBtu for Jim Bridger Units 3 and 4 as meeting the BART requirements.

PM BART Determination for Jim Bridger Units 1–4

Units 1, 2, 3, and 4 are currently controlled for PM with ESPs and flue gas conditioning (FGC). The current permit limit for all four units is 0.03 lb/MMBtu. The State determined that fabric filters were technically feasible for controlling PM emissions. The State did not identify any technically infeasible controls. The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's PM BART analyses for Units 1–4 is provided in Table 10 below. Baseline PM emissions are 1,064 tpy for Unit 1, 1,750 tpy for Unit 2, 1,348 tpy for Unit 3, and 710 tpy for Unit 4 based on unit heat input rate of 6,000 MMBtu/hr and 7,884 hours of operation per year.

TABLE 10—SUMMARY OF PACIFICORP JIM BRIDGER UNITS 1–4 P.M. BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) |
|---|---|---|---|---|---|
| Fabric Filter—Unit 1 | 66.6 | 0.015 | 709 | $6,367,118 | $8,980 |
| Fabric Filter—Unit 2 | 79.7 | 0.015 | 1,395 | 6,357,658 | 4,557 |
| Fabric Filter—Unit 3 | 73.7 | 0.015 | 993 | 6,337,434 | 6,382 |
| Fabric Filter—Unit 4 | 50 | 0.015 | 355 | 6,367,118 | 17,936 |

The State did not provide visibility improvement modeling for fabric filters, but EPA is proposing to conclude this is reasonable based on the high cost effectiveness of fabric filters at each of the units. In addition, we anticipate that the visibility improvement that would result from lowering the limit from 0.03 lb/MMBtu to 0.015 lb/MMBtu would be insignificant based on the State's analysis.[20]

Based on its consideration of the five-factors, the State determined the current ESPs with FGC were reasonable for BART. The State determined that fabric filters were not reasonable based on the high cost effectiveness. The State determined that the PM BART emission limits for Jim Bridger Units 1 through 4 are 0.03 lb/MMBtu, 180 lb/hr, and 788 tpy.

We agree with the State's conclusions, and we are proposing approve its PM BART determination for Jim Bridger Units 1–4.

vi. PacifiCorp Naughton Units 1–3

PacifiCorp Naughton is located in Lincoln County, Wyoming. Naughton is comprised of three pulverized coal-fired units with a total net generating capacity of 700 MW. Naughton Unit 1 generates a nominal 160 MW and commenced operation in 1963. Naughton Unit 2 generates a nominal 210 MW and commenced operation in 1968. Naughton Unit 3 generates a nominal 330 MW and commenced operation in 1971. All three boilers are tangentially fired boilers. The State's BART determination can be found in Chapter 6.5.6 and Appendix A of the SIP.

$NO_X$ BART Determination

Naughton Unit 1 and Unit 2 are currently controlled for $NO_X$ emissions with good combustion practices with $NO_X$ emission limits of 0.75 lb/MMBtu (3-hour block) and 0.58 lb/MMBtu (annual). Naughton Unit 3 is currently controlled with LNBs with OFA with permit limits of 0.75 lb/MMBtu (93-hour block) and 0.58 lb/MMBtu (annual). The State determined that LNBs with OFA, LNBs with OFA and SNCR, and LNBs with OFA and SCR were all technically feasible for controlling $NO_X$ emissions from Unit 1 and Unit 2. The State determined that tuning the existing LNBs, existing LNBs with OFA and SNCR, and existing LNBs with OFA and SCR were all technically feasible for controlling $NO_X$ emissions from Unit 3. The State did not identify any technically infeasible options.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there no remaining-useful-life issues for this source. A summary of the State's $NO_X$ BART analyses for Units 1–3 is provided in Tables 11, 12, and 13 below. Baseline NOx emissions are 4,230 tpy for Unit 1, 5,109 tpy for Unit 2, and 6,563 tpy for Unit 3 based on the unit heat input rate

[19] Wyoming determined that LNBs with OFA and SCR was BART for Naughton Unit 3. The cost effectiveness of SCR for Naughton Unit 3 is $2,830 with 1 deciview of visibility improvement.

[20] The cumulative 3-year averaged visibility improvement from new LNB with separated OFA, upgraded wet FGD, and FGC for enhanced ESP with FGC (Post-Control Scenario 1) across the three Class I areas achieved with LNB and separated OFA, upgraded wet FGD, and adding a polishing fabric filter (Post-Control Scenario 2) was 0.095 delta dv from Unit 1, 0.090 delta dv from Unit 2, 0.089 delta dv from Unit 3 and 0.025 delta dv from Unit 4.

of 3,700 MMBtu/hr and 7,884 hours of operation per year.

TABLE 11—SUMMARY OF NAUGHTON UNIT 1 $NO_X$ BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (Delta deciview) (Delta deciview for the maximum 98th percentile Impact at Bridger Wilderness Area) |
|---|---|---|---|---|---|---|
| LNBs with OFA | 55.2 | 0.26 | 2,334 | $993,248 | $426 | 0.79 |
| LNBs with OFA and SNCR | 63.8 | 0.21 | 2,699 | 1,972,363 | 731 | 0.80 |
| LNBs with OFA and SCR | 87.9 | 0.07 | 3,720 | 10,231,210 | 2,750 | 1.07 |

Incremental cost effectiveness for the controls evaluated are as follows: LNBs with OFA and SNCR: $2,683/ton, and LNBs with OFA and SCR: $8,089/ton.

TABLE 12—SUMMARY OF NAUGHTON UNIT 2 $NO_X$ BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Cost effectiveness ($/ton) | Visibility improvement (Delta deciview) (Delta deciview for the maximum 98th percentile Impact at Bridger Wilderness Area) |
|---|---|---|---|---|---|---|
| LNBs with OFA | 51.9 | 0.26 | 2,649 | $945,683 | $357 | 0.70 |
| LNBs with OFA and SNCR | 61.1 | 0.21 | 3,122 | 2,260,957 | 724 | 0.74 |
| LNBs with OFA and SCR | 87 | 0.07 | 4,447 | 12,664,919 | 2,848 | 1.10 |

Incremental cost effectiveness for the controls evaluated are as follows: LNBs with OFA and SNCR: $2,781/ton, and LNBs with OFA and SCR: $7,852/ton.

TABLE 13—SUMMARY OF NAUGHTON UNIT 3 $NO_X$ BART ANALYSIS

| Control technology | Control efficiency (%) | Emission rate (lb/MMBtu) (30-day rolling average) | Emission reduction (tpy) | Annualized costs | Average cost effectiveness ($/ton) | Visibility improvement (Delta dv for the maximum 98th percentile impact at Bridger Wilderness Area) |
|---|---|---|---|---|---|---|
| Tuning Existing LNBs | 17.8 | 0.37 | 1,167 | $95,130 | $82 | 0.25 |
| Existing LNBs with OFA and SNCR | 33.3 | 0.30 | 2,188 | 1,916,039 | 876 | 0.46 |
| Existing LNB with OFA and SCR | 84.4 | 0.07 | 5,542 | 15,682,702 | 2,830 | 1.00 |

Incremental cost effectiveness for the controls evaluated are as follows: LNBs with OFA and SNCR: $1,783; and LNBs with OFA and SCR: $4,105.

Based on its consideration of the five factors, the State determined LNBs with OFA was reasonable for $NO_X$ BART for Unit 1 and Unit 2. The State determined SNCR and SCR were not reasonable based on the high cost effectiveness and associated visibility improvement. The State determined the $NO_X$ BART emission limits for Naughton Unit 1 are 0.26 lb/MMBtu (30-day rolling average), 481 lb/hr (30-day rolling average), and 2,107 tpy, and the $NO_X$ BART emission limits for Naughton Unit 2 are 0.26 lb/MMBtu (30-day rolling average), 624 lb/hr (30-day rolling average), and 2,733 tpy. Based on its consideration of the five factors, the State determined that the existing LNBs with OFA plus SCR was $NO_X$ BART for Unit 3. The State determined the $NO_X$ BART emission limits for Naughton Unit 3 are 0.07 lb/MMBtu (30-day rolling average), 259 lb/hr (30-day rolling average), and 1,134 tpy.

We find it is reasonable for the State to eliminate higher performing control options for Units 1 and 2 (i.e., LNBs with advanced OFA plus SNCR and LNBs with advanced OFA plus SCR. The incremental cost effectiveness of LNBs with OFA plus SCR over LNBs with OFA is approximately $8,000 for each unit. The incremental cost effectiveness of LNBs with OFA plus SNCR over LNBs with OFA is approximately $2,700 for each unit, with incremental visibility improvement of 0.01 delta deciviews at

Unit 1 and 0.04 delta deciviews at Unit 2.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we agree with the State's conclusions, and we are proposing to approve the State's $NO_X$ BART determinations for PacifiCorp Naughton Units 1, 2, and 3.

PM BART Determination

Units 1 and 2 are currently controlled for PM with ESPs and FGC. The current permit limit for Units 1 and 2 is 0.04 lb/MMBtu. Unit 3 is required by permit to install fabric filters for both Units by 2014 with a permit limit of 0.15 lb/MMBtu. The State determined that fabric filters were technically feasible for controlling PM emissions for Units 1 and 2. The State did not identify any technically infeasible controls. The State determined that a fabric filter on Unit 3 represents the most stringent PM control technology and that 0.015 lb/MMBtu represents the most stringent emission limit. Consistent with the BART Guidelines, the State did not provide a full five-factor analysis because the State determined BART to be the most stringent control technology and limit.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's PM BART analyses for Units 1 and 2 is provided in Table 14 below. Baseline emissions for Unit 1 are 409 tpy and 605 tpy for Unit 2 based on unit heat input rate of 1,850 MMBtu/hr and 7,884 hours of operation per year.

TABLE 14—SUMMARY OF PACIFICORP NAUGHTON UNIT 1 AND UNIT 2 PM BART ANALYSIS

| Control technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) |
|---|---|---|---|---|---|
| Fabric Filter—Unit 1 | 73.2 | 0.015 | 299 | $3,436,594 | $11,494 |
| Fabric Filter—Unit 2 | 76.6 | 0.015 | 464 | 4,101,705 | 8,848 |

The State did not provide visibility improvement modeling for fabric filters, but EPA is proposing to conclude this is reasonable based on the high cost effectiveness of fabric filters at each of the units, which is higher than EPA or other State have considered reasonable for PM BART.

Based on its consideration of the five factors, the State determined that the existing ESPs with FGC were reasonable for PM BART for Units 1 and 2. The State determined that fabric filters were not reasonable based on the high cost effectiveness. The State determined that the PM BART emission limits for Naughton Unit 1 are 0.04 lb/MMBtu, 74 lb/hr, and 324 tpy and the PM BART emission limits for Naughton Unit 2 are 0.04 lb/MMBtu, 96 lb/hr, and 421 tpy. The State determined the PM BART emission limits for Naughton Unit 3 are 0.015 lb/MMBtu, 56 lb/hr, and 243 tpy.

We agree with the State's conclusions, and we are proposing to approve its BART determination for Naughton Units 1, 2, and 3.

vii. PacifiCorp Wyodak—Unit 1

Background

PacifiCorp Wyodak Power Plant is located in Campbell County, Wyoming. Wyodak Power Plant is comprised of one coal-fired boiler, Unit 1, burning pulverized sub-bituminous Powder River Basin coal for a total net generating capacity of a nominal 335MW. Wyodak's boiler commenced service in 1978. The State's BART determination can be found in Chapter 6.5.7 and Appendix A of the SIP (The $NO_X$ BART analysis for Wyodak Unit 1 is discussed in Section VII.A of this notice).

PM BART Determination

Wyodak Unit 1 is currently controlled with fabric filters with an emission limit of 0.015 lb/MMBtu (30-day rolling average). The State determined that fabric filters on Wyodak Unit 1 represent the most stringent PM control technology and that 0.015 lb/MMBtu represents the most stringent emission limit. Consistent with the BART Guidelines, the State did not provide a full five-factor analysis because the State determined BART to be the most stringent control technology and limit. The State determined the PM BART emission limits for Wyodak Unit 1 are 0.015 lb/MMBtu, 71.0 lb/hr, and 308.8 tpy.

We agree with the State's conclusions, and we are proposing to approve its PM BART determination for Wyodak Unit 1.

*D. Reasonable Progress Requirements*

In order to establish RPGs for its Class I areas, and to determine the controls needed for the LTS, Wyoming followed the process established in the RHR. Wyoming identified sources (other than BART sources) and source categories in Wyoming that are major contributors to visibility impairment and considered whether these sources should be controlled based on a consideration of the factors identified in the CAA and EPA's regulations (see CAA 169A(g)(1) and 40 CFR 51.308(d)(1)(i)(A)). Wyoming then identified the anticipated visibility improvement in 2018 in all its Class I areas using the WRAP Community Multi-Scale Air Quality (CMAQ) modeling results.

1. Visibility Impairing Pollutants and Sources

In order to determine the significant sources contributing to haze in Wyoming's Class I areas, Wyoming relied upon two source apportionment analysis techniques developed by the WRAP. The first technique was regional modeling using the Comprehensive Air Quality Model (CAMx) and the PM Source Apportionment Technology (PSAT) tool, used for the attribution for sulfate and nitrate sources only. The second technique was the Weighted Emissions Potential (WEP) tool, used for attribution of sources of OC, EC, $PM_{2.5}$, and $PM_{10}$. The WEP tool is based on emissions and residence time, not modeling and looks at all sources throughout the modeling domain.

PSAT uses the CAMx air quality model to simulate nitrate-sulfate-ammonia chemistry and apply this chemistry to a system of tracers or ''tags'' to track the chemical transformations, transport, and removal of $NO_X$ and $SO_2$. These two pollutants are important because they tend to originate from anthropogenic sources. Therefore, the results from this analysis can be useful in determining contributing sources that may be controllable, both in-state and in neighboring states.

WEP is a screening tool that helps to identify source regions that have the potential to contribute to haze formation at specific Class I areas. Unlike PSAT,

this method does not account for chemistry or deposition. The WEP combines emissions inventories, wind patterns, and residence times of air masses over each area where emissions occur, to estimate the percent contribution of different pollutants. Like PSAT, the WEP tool compares baseline values (2000–2004) to 2018 values, to show the improvement expected by 2018 for OC, EC, $PM_{2.5}$, and $PM_{10}$. More information on the WRAP modeling methodologies is available in the document *Technical Support Document for Technical Products Prepared by the Western Regional Air Partnership (WRAP) in Support of Western Regional Haze Plans* in the Supporting and Related Materials section of the docket. Table 15 shows Wyoming's contribution to extinction at its own Class I areas.

TABLE 15—WYOMING SOURCES EXTINCTION CONTRIBUTION 2000–2004 FOR 20% WORST DAYS [21]

| Class I Area | Pollutant Species | Extinction ($Mm^{-1}$) | Species Contribution to Total Particulate Extinction (%) | Wyoming Sources Contribution to Species Extinction (%) |
|---|---|---|---|---|
| Yellowstone National Park, Grand Teton National Park, Teton Wilderness. | Sulfate | 4.3 | 16.7 | 5.9 |
| | Nitrate | 1.8 | 7.0 | 4.7 |
| | OC | 13.5 | 52.4 | 72.6 |
| | EC | 2.5 | 9.7 | 66.8 |
| | Fine PM | 1.0 | 3.9 | 24.0 |
| | Coarse PM | 2.6 | 10.1 | 20.0 |
| | Sea Salt | 0.02 | 0.08 | ..... |
| North Absaroka Wilderness, Washakie Wilderness | Sulfate | 4.9 | 20.7 | 5.6 |
| | Nitrate | 1.6 | 6.8 | 8.2 |
| | OC | 11.6 | 48.9 | 44.6 |
| | EC | 1.9 | 8.0 | 39.5 |
| | Fine PM | 0.8 | 3.4 | 14.0 |
| | Coarse PM | 2.9 | 12.2 | 12.1 |
| | Sea Salt | ..... | 0.04 | ..... |
| Bridger Wilderness, Fitzpatrick Wilderness | Sulfate | 5.0 | 22.2 | 15.4 |
| | Nitrate | 1.4 | 6.2 | 19.4 |
| | OC | 10.5 | 46.6 | 58.5 |
| | EC | 2.0 | 8.9 | 51.0 |
| | Fine PM | 1.1 | 4.9 | 30.3 |
| | Coarse PM | 2.5 | 11.1 | 27.4 |
| | Sea Salt | 0.04 | 0.2 | ..... |

Table 16 shows influences from sources both inside and outside of Wyoming per the PSAT modeling for 2018. As indicated, the outside domain (OD) region is the highest contributor to sulfate and nitrate at all Wyoming Class I areas. The outside domain region represents the concentration of pollutants at the boundaries of the modeling domain. Depending on meteorology and the type of pollutant (particularly sulfate), these emissions can be transported great distances from regions such as Canada, Mexico, and the Pacific Ocean. Wyoming is the second highest contributor of particulate sulfate and nitrate at Bridger and Fitzpatrick Wilderness areas, but is a lesser contributor at the other Class I areas.

TABLE 16—PSAT SOURCE REGION APPORTIONMENT FOR 20% WORST DAYS [22]

| Class I Area | | 2018 Sulfate PSAT | | | | | 2018 Nitrate PSAT | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Yellowstone National Park, Grand Teton National Park, Teton Wilderness. | Region | OD | ID | WY | CAN | OR | OD | ID | WA | UT | OR |
| | % Contribution | 46.5 | 8.1 | 5.8 | 5.4 | 4.6 | 31.3 | 28.2 | 9.4 | 7.4 | 7.0 |
| North Absaroka Wilderness, Washakie Wilderness | Region | OD | CAN | MT | ID | WY | OD | ID | MT | CAN | WY |
| | % Contribution | 50.1 | 12.5 | 6.5 | 5.7 | 5.5 | 30.7 | 16.7 | 14.8 | 11.5 | 8.2 |
| Bridger Wilderness, Fitzpatrick Wilderness | Region | OD | WY | ID | UT | CAN | OD | WY | UT | ID | CA |
| | % Contribution | 31.1 | 15.3 | 7.6 | 5.9 | 5.1 | 21.8 | 19.3 | 15.6 | 10.6 | 6.8 |

Tables 17 shows the WEP contribution for EC, OC, $PM_{2.5}$, and $PM_{10}$.

[21] Extinction and species contribution to total particulate extinction taken from IMPROVE data (*http://vista.cira.colostate.edu/dev/web/AnnualSummaryDev/Composition.aspx*). IMPROVE data for NOABI based on available data for 2002–2004. Contribution of sulfate and nitrate based on PSAT; OC, EC, $PM_{2.5}$, and $PM_{10}$ contribution based on WEP as taken from the WRAP TSS (*http://vista.cira.colostate.edu/tss/*).

[22] OD denotes Outside Domain; ID denotes Idaho, MT denotes Montana, CAN denotes Canada, UT denotes Utah, WA denotes Washington, WY denotes Wyoming, CA denotes California, and OR denotes Oregon.

TABLE 17—WEP SOURCE CATEGORY CONTRIBUTION FOR 20% WORST DAYS

| Class I Area | Point | Area | Mobile | Anthropogenic Fires | Natural Fires and Biogenic |
|---|---|---|---|---|---|
| **OC** | | | | | |
| Yellowstone National Park, Grand Teton National Park, Teton Wilderness | 0.408 | 3.892 | 1.636 | 8.303 | 85.764 |
| North Absaroka Wilderness, Washakie Wilderness | 0.661 | 9.449 | 2.844 | 11.881 | 75.159 |
| Bridger Wilderness, Fitzpatrick Wilderness | 0.984 | 7.552 | 3.28 | 7.644 | 80.543 |
| **EC** | | | | | |
| Yellowstone National Park, Grand Teton National Park, Teton Wilderness | 0.243 | 2.628 | 13.659 | 5.51 | 77.958 |
| North Absaroka Wilderness, Washakie Wilderness | 0.386 | 5.755 | 23.253 | 7.054 | 63.55 |
| Bridger Wilderness, Fitzpatrick Wilderness | 0.54 | 4.509 | 25.65 | 4.105 | 65.195 |
| **$PM_{2.5}$** | | | | | |
| Yellowstone National Park, Grand Teton National Park, Teton Wilderness | 5.565 | 70.463 | 0.086 | 5.469 | 18.411 |
| North Absaroka Wilderness, Washakie Wilderness | 3.491 | 86.311 | 0.171 | 3.334 | 6.691 |
| Bridger Wilderness, Fitzpatrick Wilderness | 16.311 | 69.195 | 0.081 | 3.618 | 10.785 |
| **$PM_{10}$** | | | | | |
| Yellowstone National Park, Grand Teton National Park, Teton Wilderness | 2.655 | 83.939 | 0.363 | 0.717 | 12.316 |
| North Absaroka Wilderness, Washakie Wilderness | 2.066 | 93.197 | 0.213 | 0.313 | 4.206 |
| Bridger Wilderness, Fitzpatrick Wilderness | 6.775 | 84.157 | 0.477 | 0.353 | 8.23 |

Table 17 shows that EC, OC, $PM_{2.5}$ and $PM_{10}$ emissions come mainly from sources such as natural fire, windblown dust, and road dust. To select the sources that would undergo the required four factor analysis, Wyoming looked at State emission inventory data in conjunction with the source apportionment information discussed above (a summary of the State's emission inventory can be found in section VI.E.1 of this notice). After evaluating this information, the State determined that stationary source emissions of $NO_X$ and $SO_2$ were reasonable to evaluate for purposes of reasonable progress controls. The State also determined that emissions of $NO_X$ from oil and gas development should be analyzed for purposes of reasonable progress. Since emissions of OC, EC, $PM_{2.5}$, and $PM_{10}$ come from mainly uncontrollable sources, the State determined it was reasonable to not evaluate these pollutants for reasonable progress controls. The State submitted a January 12, 2011, SIP that addresses sources of $SO_2$.[23] Thus, the State evaluated emissions of the remaining pollutant, $NO_X$, for reasonable progress in this SIP.

[23] The State submitted a January 12, 2011 SIP submittal to address the requirements under 40 CFR 51.309, with the exception of the 40 CFR 51.309(g) requirements addressed in this SIP submittal.

2. Four Factor Analysis

In determining the measures necessary to make reasonable progress, States must take into account the following four factors and demonstrate how they were taken into consideration in selecting reasonable progress goals for a Class I area:

- Costs of Compliance;
- Time Necessary for Compliance;
- Energy and Non-air Quality Environmental Impacts of Compliance; and
- Remaining Useful Life of any Potentially Affected Sources.

CAA § 169A(g)(1) and 40 CFR 308(d)(1)(i)(A).

The State performed a four factor analysis for each of the reasonable progress sources pursuant to 40 CFR 51.308(d)(1)(i)(A).

a. Stationary Sources

The State used a reasonable progress screening methodology termed ''Q/d'' to determine which stationary sources would be candidates for controls under reasonable progress. Q/d is a calculated ratio where Q represents (in this case) the $NO_X$ emission rate in tpy of the source divided by the distance in kilometers of the point source from the nearest Class I area, denoted by ''d.'' The State used the maximum permitted emission rate for each source to determine the tpy of $NO_X$ it used in the Q/d calculation. The State determined that a Q/d value of 10 is reasonable for determining which sources the State should consider for reasonable progress controls, since this value yielded sources of concern similar in magnitude to sources subject-to-BART.

The State determined there were three units with a Q/d of greater than 10 that are not already being controlled under BART and the State completed a reasonable progress analysis for each of the sources. The sources are PacifiCorp Dave Johnson Unit 1 and Unit 2 and Mountain Cement Company Laramie Plant kiln. Dave Johnston Units 1 and 2 is addressed as part of our FIP in section VII.B of this notice. In addition, as previously mentioned, the State considered reasonable controls on oil and gas development sources.

b. Summary of Reasonable Progress Determinations and Limits

For the subject-to-reasonable progress sources, the State provided analyses that took into consideration the four factors as required by section 169A(g)(1) of the CAA and 40 CFR 51.308(d)(1)(i)(A). For the stationary sources, the State relied on the analysis found in *Supplementary Information for Four-Factor Analyses for Selected Individual Facilities in Wyoming,* May 6, 2009, Revised Draft Report Prepared by EC/R Incorporated. For oil and gas sources, the State relied on the analysis found in *Supplementary Information for Four Factor Analyses by WRAP States,* May 4, 2009 (Corrected 4/

20/10) Revised Draft Report Prepared by EC/R Incorporated (for a complete copy of the reports see Chapter 7 of the State's TSD). The analyses considered EPA's BART Guidelines as relevant to their reasonable progress evaluations, as well as EPA's *Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program.*

In this action, EPA is proposing to approve the reasonable progress $NO_X$ determinations submitted by the State for oil and gas sources and for Mountain Cement Company Laramie Plant kiln. EPA is proposing to disapprove the State's reasonable progress determinations and proposing to issue a reasonable progress determination $NO_X$ FIP for PacifiCorp Dave Johnston Unit 1 and Unit 2. EPA's rationale for disapproving the State's reasonable progress determination for these units, as well as EPA's reasonable progress FIP determination, can be found in section VII.B of this notice.

A summary of the reasonable progress analysis and determination for each source/source category that we are proposing to approve is provided below.

i. Oil and Gas Area Sources

Background

Oil and gas exploration and production is occurring in numerous areas in Wyoming. The sources associated with oil and gas production mainly emit $NO_X$ and VOCs; in this context, the State considered $NO_X$. Oil and gas production and exploration includes operation, maintenance, and servicing of production properties, including transportation to and from sites. EC/R evaluated reasonable progress control technologies for common sources in the oil and gas industry including compressor engines, turbines, process heaters, and drilling rig engines. The State's $NO_X$ reasonable progress determination for oil and gas sources can be found in Chapter 7.3.5 of the SIP.

$NO_X$ Reasonable Progress Determination

For compressor engines, potential control options identified by the State include air-fuel ratio controls (AFRC), ignition timing retard, low-emission combustion (LEC) retrofit, SCR, SNCR, and replacement with electric motors. The State evaluated several control technologies for drilling rig engines including ignition timing retard, exhaust gas recirculation (EGR), SCR, replacement of Tier 2 engines with Tier 4 engines, and diesel oxidation catalyst. Potential controls for turbines identified by the State include water or steam injection, LNBs, SCR, and water or steam injection with SCR. $NO_X$ emission control technologies identified by the State for process heaters include LNBs, ultra-low $NO_X$ burners (ULNBs), LNBs with flue gas recirculation (FGR), SNCR, SCR, and LNBs installed in conjunction with SCR.

$NO_X$ emissions vary based on the equipment and fuel source. Emissions from individual natural gas-fired turbines at production operations can be as high as 877 tpy of $NO_X$, while emissions from individual natural gas turbines at exploration operations can reach 131 tpy of $NO_X$. Individual gas reciprocating engines have comparable $NO_X$ emissions with up to 700 tpy at production operations and 210 tpy at exploration operations. Diesel engine emissions can approach 46 tpy for production operations and 10 tpy for exploration operations.

Table 18 provides a summary of the reasonable progress $NO_X$ analysis for oil and gas sources. Both the capital and annual costs for each technology is dependent on the engine size or on the process throughput; therefore, for most of the control technologies listed in Table 18, the State has provided cost estimate ranges. The lower end of the cost/ton estimates represent the cost per unit for larger or higher production units, while the higher end of the cost/ton estimates represent the cost per unit for the smaller or lower production units.

TABLE 18—SUMMARY OF REASONABLE PROGRESS $NO_X$ ANALYSIS FOR OIL AND GAS EXPLORATION AND PRODUCTION EQUIPMENT

| Source Type | Control Technology | Estimated Control Efficiency (%) | Pollutant Controlled | Estimated Capital Cost ($/unit) | Annual Cost ($/year/unit) | Units | Cost Effectiveness ($/ton) |
|---|---|---|---|---|---|---|---|
| Compressor Engines | AFRC | 10–40 | $NO_X$ | 5.3–42 | 0.9–6.8 | hp | 68–2,500 |
| | Ignition timing retard | 15–30 | $NO_X$ | N/A | 1–3 | hp | 42–1,200 |
| | LEC retrofit | 80–90 | $NO_X$ | 120–820 | 30–210 | hp | 320–2,500 |
| | SCR | 90 | $NO_X$ | 100–450 | 40–270 | hp | 870–31,000 |
| | SNCR | 90–99 | $NO_X$ | 17–35 | 3–6 | hp | 16–36 |
| | Replacement with electric motors. | 100 | $NO_X$ | 120–140 | 38–44 | hp | 100–4,700 |
| Drilling Rig Engines and Other Engines. | Ignition timing retard | 15–30 | $NO_X$ | 16–120 | 14–66 | hp | 1,000–2,200 |
| | EGR | 40 | $NO_X$ | 100 | 26–67 | hp | 780–2,000 |
| | SCR | 80–95 | $NO_X$ | 100–2,000 | 40–1,200 | hp | 3,000–7,700 |
| | Replacement of Tier 2 engines with Tier 4. | 87 | $NO_X$ | 125 | 20 | hp | 900–2,400 |
| Turbines | Water or steam injection | 68–80 | $NO_X$ | 4.4–16 | 2–5 | 1000 BTU | 560–3,100 |
| | LNB | 68–84 | $NO_X$ | 8–22 | 2.7–8.5 | 1000 BTU | 2,000–10,000 |
| | SCR | 90 | $NO_X$ | 13–34 | 5.1–13 | 1000 BTU | 1,000–6,700 |
| | Water or steam injection with SCR. | 93–96 | $NO_X$ | 13–34 | 5.1–13 | 1000 BTU | 1,000–6,700 |
| Process Heaters | LNB | 40 | $NO_X$ | 3.8–7.6 | 0.41–0.81 | 1000 BTU | 2,100–2,800 |
| | ULNB | 75–85 | $NO_X$ | 4.0–13 | 0.43–1.3 | 1000 BTU | 1,500–2,000 |
| | LNB and FGR | 48 | $NO_X$ | 16 | 1.7 | 1000 BTU | 2,600 |
| | SNCR | 60 | $NO_X$ | 10–22 | 1.1–2.4 | 1000 BTU | 4,700–5,200 |
| | SCR | 70–90 | $NO_X$ | 33–48 | 3.7–5.6 | 1000 BTU | 2,900–6,700 |
| | LNB and SCR | 70–90 | $NO_X$ | 37–55 | 4–6.3 | 1000 BTU | 2,900–6,300 |

Wyoming states that it would need up to two years to develop the necessary regulations to control oil and gas sources.[24] The State estimated that companies would require a year to procure the necessary capital to purchase the control equipment. The time required to design, fabricate, and install control technologies will vary based on the control technology selected and other factors.

The State determined that no additional controls for oil and gas sources were reasonable at this time. The State concluded that emissions from large stationary sources processing oil and gas in the WRAP region have been well quantified over the years, while smaller exploration and production sources that the State is evaluating for reasonable progress have not had the same degree of emission inventory development. The State points out that understanding the sources and volume of emissions at oil and gas production sites is necessary to recognizing the impact that these emissions have on visibility.

To better understand the emissions from stationary and mobile equipment operated as part of oil and gas field operations, the WRAP has been working on developing an emission inventory to more fully characterize the oil and gas field operations emissions. The WRAP's development of a more comprehensive emission inventory is still in process (as of the date of the State's SIP submittal). The State determined it cannot complete the evaluation of oil and gas on visibility until the WRAP emission inventory study has been completed.

The State points out that in the case of compressor engines, many facilities have already installed control equipment.[25] For lean burn engines, oxidation catalysts are commonly installed, while SNCR with AFRC are commonly installed for rich burn engines. The State also points out that regulating drill rig engines can be problematic since drill rig engines are, for the most part, considered mobile sources and emission limits for mobile sources are set by the Federal government under section 202 of the CAA.

We disagree with the State's reasoning for not adopting reasonable progress controls for oil and gas sources. If the State determined that additional information was needed to potentially control oil and gas sources, the State should have developed the information. While we disagree with the State's reasoning for not requiring any controls under reasonable progress, we are proposing to approve the State's conclusion that no additional $NO_X$ controls are warranted for this planning period. As shown by the four factor analyses, the most reasonable controls are for compressor engines, which the State already controls through its minor source BACT requirements (see above). In addition, while the costs of some controls are within the range of cost effectiveness values Wyoming, other states, and we have considered as reasonable in the BART context, they are not so low that we are prepared to disapprove the State's conclusion in the reasonable progress context.

We are proposing to approve the State's reasonable progress determination for oil and gas sources.

ii. Mountain Cement Company Laramie Plant—Kiln

Background

The Mountain Cement Company Laramie Plant cement kiln is a long dry kiln with a capacity of 1,500 tons of clinker per day. Assuming the plant runs 365 days of the year, the result is 547,500 tpy of clinker.

$NO_X$ Reasonable Progress Determination

The kiln is currently uncontrolled for $NO_X$ emissions. The State determined that indirect and direct firing of LNBs, biosolid injection, NOxOUT SM, CemSTAR SM, LoTOx ™, SCR, SNCR (using urea), and SNCR (using ammonia) were technically feasible for controlling $NO_X$ emissions from the kiln. The State did not identify any technically infeasible controls.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's $NO_X$ reasonable progress analyses for the kiln is provided in Table 19 below. Baseline $NO_X$ emissions for the kiln are 524 tpy based on 2002 actual emissions.

TABLE 19—SUMMARY OF MOUNTAIN CEMENT COMPANY KILN $NO_X$ REASONABLE PROGRESS ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Reduction (tpy) | Annualized Costs | Cost Effectiveness ($/ton) |
|---|---|---|---|---|
| LNB (indirect) | 30–40 | 157–210 | $205,000 | $6,568–4,910 |
| LNB (direct) | 40 | 210 | 449,000 | 13,853 |
| Biosolid Injection[26] | 50 | 262 | −127,000 | 1,324 |
| NOxOUT SM | 35 | 183 | 507,000 | 8,023 |
| CemSTAR SM[27] | 20–60 | 105–314 | Unknown | Unknown |
| LoTOx™[28] | 80–90 | 419–472 | Unknown | Unknown |
| SCR | 80 | 419 | 7,553,000 | 82,535 |
| SNCR (urea)[29] | 35 | 183 | Unknown | 1,223 |
| SNCR (ammonia) | 35 | 183 | Unknown | 1,223 |

The State estimated that it could potentially take seven years to install control equipment on the kiln. This estimate includes the two years that will be necessary for the State to implement new regulations and the one-year Mountain Cement will likely need to obtain the necessary capital for the purchase of new emission control technology. The State estimates the total time necessary for compliance will vary based on the control technology selected. For example, the State predicts that one and a half years will be required to design, fabricate, and install

[24] For all reasonable progress sources, the time necessary to develop regulations is not a consideration under the time necessary for compliance factor. If regulations are needed to implement reasonable progress controls, the State must develop them as part of the regional haze SIP.

[25] Oil and gas sources are regulated by the State as part of its minor source BACT requirements in Wyoming Air Quality Standards and Regulations Chapter 6, Section 2.

[26] A negative annual cost is given because cement kilns receive a credit for the biosolids tipping fee paid by facilities providing the biosolids to the cement plant. For the purposes of this analysis, the tipping fee is $5.00/ton.

[27] Cost effectiveness figures for the CemStar SM process were not available for dry kilns.

[28] Cost effectiveness figures for LoTOx ™ were not available for dry kilns.

[29] Capital and annual costs for SNCR have only been costed for preheater and precalcnier kilns. Only cost effectiveness figures were available for dry kilns.

SCR or SNCR technology, while over two and a half years will be required to design, fabricate, and install LoTOx™ technology.

The State determined no controls were reasonable for reasonable progress for Mountain Cement Company Laramie Plant kiln. The State cited that the four-factor analysis was limited, in that no guidance was provided by EPA for identifying significant sources and EPA did not establish contribution to visibility impairment thresholds (a potential fifth factor for reasonable progress determinations).[30] The State further claims that the State cannot, per Wyoming Statute 35–11–202, establish emission control requirements except through State rule or regulation. Furthermore, the Wyoming statute requires the State to consider the character and degree of injury of the emissions involved. In this case, the State claims it would need to have visibility modeling that assessed the degree of injury caused by the emissions, which the State does not have. The State believes it has taken a strong and reasonable first step in identifying potential contributors to visibility impairment, and that the next step of creating an appropriate rule or regulation will be accomplished in the next SIP revision.

We disagree with the State's reasoning for not adopting reasonable progress controls for Mountain Cement Company Laramie Plant kiln. If the State determined that it needed to adopt a rule or perform modeling to adequately assess and, if warranted, require reasonable progress controls, the State should have completed these steps before it submitted its regional haze SIP. The RHR does not allow for commitments to potentially implement strategies at some later date that are identified under reasonable progress or for the State to take credit for such commitments. Nor does it allow the State to consider the time to promulgate regulations as part of the time for compliance.

[30] States must consider the four factors as listed above but can also take into account other relevant factors for the reasonable progress sources identified (see EPA's *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program*, (''EPA's Reasonable Progress Guidance''), p. 2–3, July 1, 2007).

While we disagree with the State's reasoning for not requiring any controls under reasonable progress, we are proposing to approve the State's conclusion that no additional $NO_X$ controls are warranted for this planning period. While the costs of some controls (i.e., biosolid injection and SNCR) are within the range of cost effectiveness values Wyoming, other states, and we have considered as reasonable in the BART context, they are not so low that we are prepared to disapprove the State's conclusion in the reasonable progress context. In addition, these controls afford relatively modest emission reductions.

3. Reasonable Progress Goals

40 CFR 51.308(d)(1) requires states to ''establish goals'' (in deciviews) that provide for reasonable progress towards achieving natural visibility conditions for each Class I area of the State. These RPGs are interim goals that must provide for incremental visibility improvement for the most impaired visibility days, and ensure no degradation for the least impaired visibility days. The RPGs for the first planning period are goals for the year 2018.

Wyoming relied on WRAP modeling to establish its RPGs for 2018. The primary tool WRAP relied upon for modeling regional haze improvements by 2018, and for estimating Wyoming's RPGs, was the CMAQ model. The CMAQ model was used to estimate 2018 visibility conditions in Wyoming and all western Class I areas, based on application of anticipated regional haze strategies in the various states' regional haze plans, including assumed controls on BART sources.

The Regional Modeling Center (RMC) at the University of California Riverside conducted the CMAQ modeling under the oversight of the WRAP Modeling Forum. The RMC developed air quality modeling inputs including annual meteorology and emissions inventories for: (1) A 2002 actual emissions base case; (2) a planning case to represent the 2000–2004 regional haze baseline period using averages for key emissions categories; and (3) a 2018 base case of projected emissions determined using factors known at the end of 2005. All emission inventories were spatially and temporally allocated using the Sparse Matrix Operator Kernel Emissions (SMOKE) modeling system. Each of these inventories underwent a number of revisions throughout the development process to arrive at the final versions used in CMAQ modeling.

The photochemical modeling of regional haze for the WRAP states for 2002 and 2018 was conducted on the 36-km resolution national regional planning organization domain that covered the continental United States, portions of Canada and Mexico, and portions of the Atlantic and Pacific Oceans along the east and west coasts. The RMC examined the model performance of the regional modeling for the areas of interest before determining whether the CMAQ model results were suitable for use in the regional haze assessment of the LTS and for use in the modeling assessment. The 2002 modeling efforts were used to evaluate air quality/visibility modeling for a historical episode, in this case, for calendar year 2002, to demonstrate the suitability of the modeling systems for subsequent planning, sensitivity, and emissions control strategy modeling. Model performance evaluation compares output from model simulations with ambient air quality data for the same time period to determine whether model performance is sufficiently accurate to justify using the model to simulate future conditions. Once the RMC determined that model performance was acceptable, it used the model to determine the 2018 RPGs using the current and future year air quality modeling predictions, and compared the RPGs to the uniform rate of progress. A more detailed description of the CMAQ modeling performed for the WRAP can be found in the Chapter 5 of the State's TSD.

The State determined that the WRAP 2018 projections represent significant visibility improvement and reasonable progress toward natural visibility based upon the State's consideration of the factors required for BART and reasonable progress. The State adopted the WRAPs 2018 projections as their RPG for each Class I area. Table 20 shows the URP and the 2018 RPGs adopted by the State.

TABLE 20—WYOMING'S URP AND RPGS FOR 2018

| Wyoming Class I Areas | 20% Worst Days | | | | 20% Best Days | |
|---|---|---|---|---|---|---|
| | 2000–2004 Baseline (deciview) | 2018 URP (deciview) | Reduction Needed to Reach URP Goal (Delta deciview) | 2018 CMAQ Modeling Projection—State's RPG | 2000–2004 Baseline (deciview) | 2018 CMAQ Modeling Projection (deciview) |
| Yellowstone National Park, Grand Teton National, Park Teton Wilderness | 11.8 | 10.5 | 0.7 | 11.2 | 2.6 | 2.4 |
| North Absaroka Wilderness, Washakie Wilderness | 11.5 | 10.4 | 0.6 | 11.0 | 2.0 | 2.0 |
| Bridger Wilderness, Fitzpatrick Wilderness | 11.1 | 10.0 | 0.6 | 10.6 | 2.1 | 2.0 |

Table 20 shows that the State's regional haze SIP is providing for improvement in visibility for the most-impaired days for the period ending in 2018 and allows for no degradation in visibility for the least-impaired days.

Table 20 also shows that Wyoming is not meeting the URP to meet natural visibility conditions by 2064. In this case, 40 CFR 51.308(d)(1)(ii) requires the State to demonstrate, based on the four factors in 51.308(d)(1)(i)(A), that the RPGs established in this SIP are reasonable for this planning period and that achieving the URP in this planning period is not reasonable. In its demonstration, the State cited many reasons why meeting the URP was not reasonable, including the following. First, emissions from natural sources greatly affect the State's ability to meet the 2018 URP. As discussed earlier, WEP data shows that emissions of OC, EC, $PM_{2.5}$, and $PM_{10}$ come mainly from natural or non-anthropogenic sources, such as natural wildfire and windblown dust. The State has little or no control over OC, EC, $PM_{2.5}$, and $PM_{10}$ emissions associated with natural fire and windblown dust. Second, emissions from sources outside the WRAP modeling domain also affect the State's ability to meet the 2018 URP. Sources outside of the modeling domain are the single largest source region contributor to sulfate and nitrate at the State's Class I areas. These sources are not under the control of Wyoming or the surrounding states.

Since the State is not meeting the URP, the State is required by 40 CFR 51.308(d)(1)(ii) to assess the number of years it would take to reach natural conditions if visibility improvement continues at the current rate of progress. The State has calculated the year and the length of time to reach natural visibility as follows: Yellowstone National Park, Grand Teton National Park, and Teton Wilderness: 2130 (126 years); North Absaroka Wilderness and Washakie Wilderness: 2136 (132 years); and Bridger Wilderness and Fitzpatrick Wilderness: 2165 (161 years).

EPA disagrees with the State's assessment that, based on the factors in 40 CFR 51.308(d)(1)(i)(a), all reasonable controls were implemented by the State for this first planning period of the regional haze program. In particular, as discussed in section VII.B.i below, we find unreasonable the State's determination to not impose controls at PacifiCorp Dave Johnston Units 1 and 2. As a result, EPA is proposing to disapprove the State's RPGs, and because we are proposing to disapprove Wyoming's RPGs, we are also proposing a FIP to replace them. See discussion in section VII.C below.

*E. Long Term Strategy*

1. Emission Inventories

Section 51.308(d)(3)(iii) requires that Wyoming document the technical basis, including modeling, monitoring, and emissions information, on which it relied to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal area it affects. Wyoming must identify the baseline emissions inventory on which its strategies are based. 40 CFR 51.308(d)(3)(iv) requires that Wyoming identify all anthropogenic sources of visibility impairment it considered in developing its LTS strategy. This includes major and minor stationary sources, mobile sources, and area sources.

In order to meet these requirements, Wyoming relied on the emission inventory developed by the WRAP. The State has provided an emission inventory for $SO_2$, $NO_X$, VOC, OC, EC, $PM_{2.5}$, $PM_{10}$, and $NH_3$. The inventory provides the baseline year 2002 emissions and provides projections of future emissions in 2018 based on expected controls, growth, and other factors. The following are the inventory source categories identified by the State: Point, area, on-road mobile, off-road mobile, anthropogenic fire, natural fire, road dust, fugitive dust, area source oil and gas, and biogenic emissions. The emission inventories developed by the WRAP were calculated using best available data and approved EPA methods.[31] Following is a summary of the emission inventory for each pollutant by source.

$SO_2$

Sulfur dioxide emissions come primarily from coal combustion at EGUs, but smaller amounts come from natural gas combustion, mobile sources and wood combustion.

TABLE 21—WYOMING $SO_2$ EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 119,717 | 96,809 | −19 |
| Area | 16,689 | 23,093 | 38 |

[31] The methods WRAP used to develop these emission inventories are described in more detail in *Technical Support Document for Technical Products Prepared by the Western Regional Air Partnership (WRAP) in Support of Western Regional Haze Plans* in the Supporting and Related Materials section of the docket.

TABLE 21—WYOMING $SO_2$ EMISSIONS—2002 AND 2018—Continued

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| On-Road Mobile | 959 | 81 | −92 |
| Off-Road Mobile | 5,866 | 65 | −99 |
| Oil & Gas | 150 | 3 | −98 |
| Road Dust | 0 | 0 | 0 |
| Fugitive Dust | 0 | 0 | 0 |
| Windblown Dust | 0 | 0 | 0 |
| Anthropogenic Fire | 173 | 109 | −37 |
| Natural Fire | 2,286 | 2,286 | 0 |
| Biogenic | 0 | 0 | 0 |
| Total | 145,840 | 122,446 | −16 |

The State expects a 16% reduction in $SO_2$ emissions by 2018 due to planned controls on existing sources, even with expected growth in generating capacity for the State.

$NO_X$

$NO_X$ emissions in Wyoming come mostly from point sources and from on-road and off-road mobile sources.

TABLE 22—WYOMING $NO_X$ EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 117,806 | 110,109 | −7 |
| Area | 15,192 | 19,663 | 29 |
| On-Road Mobile | 38,535 | 9,728 | −75 |
| Off-Road Mobile | 76,637 | 49,677 | −35 |
| Oil & Gas | 14,725 | 34,142 | 132 |
| Road Dust | 0 | 0 | 0 |
| Fugitive Dust | 0 | 0 | 0 |
| Windblown Dust | 0 | 0 | 0 |
| Anthropogenic Fire | 782 | 484 | −38 |
| Natural Fire | 8,372 | 8,372 | 0 |
| Biogenic | 15,925 | 15,925 | 0 |
| Total | 287,974 | 248,100 | −14 |

The State expects $NO_X$ emissions to decrease by 14% by 2018, primarily due to significant reductions in mobile source emissions. The State projects that off-road and on-road vehicles emissions will decline by more than 55,760 tpy from the baseline 2002 emissions of 115,172 tpy.

OC

A wide variety of sources contribute emissions to this pollutant, including diesel emissions and combustion byproducts from wood and agricultural burning.

TABLE 23—WYOMING OC EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 646 | 990 | 53 |
| Area | 2,000 | 1,975 | −1 |
| On-Road Mobile | 304 | 249 | −18 |
| Off-Road Mobile | 625 | 411 | −34 |
| Oil & Gas | 0 | 0 | 0 |
| Road Dust | 20 | 26 | 30 |
| Fugitive Dust | 96 | 133 | 39 |
| Windblown Dust | 0 | 0 | 0 |
| Anthropogenic Fire | 1,709 | 886 | −48 |
| Natural Fire | 23,793 | 23,793 | 0 |
| Biogenic | 0 | 0 | 0 |
| Total | 29,193 | 28,463 | −3 |

OC emissions from all sources are expected to show a 3% decline. Natural fire is the largest source contributing to OC emissions. The State does not have the ability to predict future emissions from natural fires and thus, the State

held this category constant in the inventory.

EC

EC is a byproduct of incomplete combustion. EC emissions mainly come from mobile sources and natural fires.

TABLE 24—WYOMING EC EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 104 | 180 | 73 |
| Area | 304 | 335 | 10 |
| On-Road Mobile | 443 | 86 | −81 |
| Off-Road Mobile | 1,986 | 1,161 | −42 |
| Oil & Gas | 0 | 0 | 0 |
| Road Dust | 2 | 2 | 0 |
| Fugitive Dust | 7 | 9 | 29 |
| Windblown Dust | 0 | 0 | 0 |
| Anthropogenic Fire | 298 | 153 | −49 |
| Natural Fire | 4,922 | 4,922 | 0 |
| Biogenic | 0 | 0 | 0 |
| Total | 8,066 | 6,848 | −15 |

The State predicts EC emissions to decrease approximately 15% by 2018. Reductions in manmade emissions of EC are largely due to mobile sources emission reductions resulting from new federal emission standards for mobile sources, especially for diesel engines.

$PM_{2.5}$

$PM_{2.5}$ emissions come mainly from agricultural and mining activities, windblown dust from construction areas, and emissions from unpaved and paved roads.

TABLE 25—WYOMING $PM_{2.5}$ EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 11,375 | 15,709 | 38 |
| Area | 1,601 | 1,756 | 10 |
| On-Road Mobile | 0 | 0 | 0 |
| Off-Road Mobile | 0 | 0 | 0 |
| Oil & Gas | 0 | 0 | 0 |
| Road Dust | 160 | 206 | 29 |
| Fugitive Dust | 2,082 | 2,882 | 38 |
| Windblown Dust | 5,838 | 5,838 | 0 |
| Anthropogenic Fire | 242 | 129 | −47 |
| Natural Fire | 1,535 | 1,535 | 0 |
| Biogenic | 0 | 0 | 0 |
| Total | 22,833 | 28,055 | 23 |

The State predicts emissions of $PM_{2.5}$ to increase 23% by 2018. Emission increases are related to population growth and an increase in vehicle miles traveled.

$PM_{10}$

$PM_{10}$ emissions come from many of the same sources as $PM_{2.5}$ emissions but other activities like rock crushing and processing, material transfer, open pit mining and unpaved road emissions can be prominent sources.

TABLE 26—WYOMING $PM_{10}$ EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 24,751 | 30,619 | 24 |
| Area | 409 | 653 | 60 |
| On-Road Mobile | 171 | 165 | −4 |
| Off-Road Mobile | 0 | 0 | 0 |
| Oil & Gas | 0 | 0 | 0 |
| Road Dust | 1,125 | 1,449 | 29 |
| Fugitive Dust | 18,030 | 25,144 | 39 |
| Windblown Dust | 52,546 | 52,546 | 0 |
| Anthro Fire | 259 | 109 | −58 |
| Natural Fire | 5,369 | 5,369 | 0 |

TABLE 26—WYOMING $PM_{10}$ EMISSIONS—2002 AND 2018—Continued

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Biogenic | 0 | 0 | 0 |
| Total | 102,660 | 116,054 | 13 |

Overall, $PM_{10}$ emissions are expected to increase by 13%. Increases in coarse PM emissions are linked to population growth and vehicle miles traveled.

$NH_3$

$NH_3$ emissions come from a variety of sources including wastewater treatment facilities, livestock operations, fertilizer application, mobile sources, and point sources.

TABLE 27—WYOMING $NH_3$ EMISSIONS—2002 AND 2018

| Source Category | Baseline 2002 | Future 2018 | Percent Change |
|---|---|---|---|
| Point | 685 | 1,398 | 104 |
| Area | 29,776 | 29,901 | 0 |
| On-Road Mobile | 538 | 724 | 35 |
| Off-Road Mobile | 41 | 57 | 39 |
| Oil & Gas | 0 | 0 | 0 |
| Road Dust | 0 | 0 | 0 |
| Fugitive Dust | 0 | 0 | 0 |
| Windblown Dust | 0 | 0 | 0 |
| Anthropogenic Fire | 218 | 119 | −45 |
| Natural Fire | 1,775 | 1,775 | 0 |
| Biogenic | 0 | 0 | 0 |
| Total | 33,033 | 33,974 | 3 |

$NH_3$ emissions are expected to increase by 3% by 2018. Increases in $NH_3$ emissions are linked to population growth and increased vehicular traffic.

2. Consultation and Emissions Reductions for Other States' Class I Areas

40 CFR 51.308(d)(3)(i) requires that Wyoming consult with another state if its emissions are reasonably anticipated to contribute to visibility impairment at that state's Class I area(s), and that Wyoming consult with other states if those other states' emissions are reasonably anticipated to contribute to visibility impairment at its Class I areas. The State participated in regional planning, coordination, and consultation with other states in developing emission management strategies through the WRAP. Through the WRAP consultation process, Wyoming has reviewed and analyzed contributions from other states that reasonably may cause or contribute to visibility impairment in Wyoming's Class I areas and analyzed Wyoming's impact on other states' Class I areas.

40 CFR 51.308(d)(3)(ii) requires that if Wyoming emissions cause or contribute to impairment in another state's Class I area, Wyoming must demonstrate that it has included in its regional haze SIP all measures necessary to obtain its share of the emission reductions needed to meet the RPG for that Class I area. Section 51.308(d)(3)(ii) also requires that, since Wyoming participated in a regional planning process, it must ensure it has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. As we state in the RHR, Wyoming's commitments to participate in WRAP bind it to secure emission reductions agreed to as a result of that process.

The State determined it did potentially impact Class I areas in South Dakota, Colorado, Utah, Idaho, Montana, and North Dakota (see Table 8.1.2.1–1 in the SIP). Wyoming accepted and incorporated the WRAP-developed visibility modeling into its regional haze SIP and the SIP includes the controls assumed in the modeling. Wyoming has satisfied the RHR requirements for consultation and included controls in the SIP sufficient to address the relevant requirements related to impacts on Class I areas in other states.

We are proposing to find that the State has met the requirements for consultation under 40 CFR 51.308(d)(3)(i) and 40 CFR 51.308(d)(3)(ii).

3. Mandatory Long-Term Strategy Requirements

40 CFR 51.308(d)(3)(v) requires that Wyoming, at a minimum, consider certain factors in developing its LTS. These are: (a) Emission reductions due to ongoing air pollution control programs, including measures to address RAVI; (b) measures to mitigate the impacts of construction activities; (c) emissions limitations and schedules for compliance to achieve the reasonable progress goals; (d) source retirement and replacement schedules; (e) smoke management techniques for agricultural and forestry management purposes including plans that currently exist within the state for these purposes; (f) enforceability of emissions limitations and control measures; and (g) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the LTS.

a. Reductions Due to Ongoing Air Pollution Programs

In addition to its BART and reasonable progress determinations, the State's LTS contains other reductions due to ongoing air pollution programs. The State's LTS contains numerous ongoing air pollution programs, including: (1) New Source Review Program, which is a permit program for

the construction of new sources and the modification of existing sources; (2) Prevention of Significant Deterioration Program, which protects visibility impairment from proposed major stationary sources or major modifications to existing facilities; and (3) New Source Performance Standards, which the State incorporates by reference on an annual basis. For a complete listing of ongoing air pollution programs in Wyoming, see Chapter 8.2.1 of the SIP.

b. Measures To Mitigate the Impacts of Construction Activities

Chapter 3 of the Wyoming Air Quality Standards and Regulations (WAQSR) establishes limits on the quantity or concentration of emissions of air pollutants from numerous sources, including construction activities. Specifically, WAQSR Chapter 3, Section 2(f), prescribes measures to ensure the control of fugitive dust emissions during construction or demolition activities. WAQSR Chapter 3, Section 2(f) requires any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land to take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization. EPA approved WAQSR Chapter 3 into the SIP on July 28, 2004 (69 FR 44965).

c. Smoke Management

WAQSR Chapter 10 establishes restrictions and requirements on different types of burning in Wyoming. WAQSR Chapter 10, Section 2 regulates open burning, including refuse burning, open burning of trade wastes, open burning at salvage operations, open burning for firefighting training, and small vegetative material open burning (not exceeding 0.25 tons per day of PM). WAQSR Chapter 10, Section 3 regulates emissions from wood waste burners. EPA approved WAQSR Chapter 10, Section 2 and 3 into the SIP on July 28, 2004 (69 FR 44965). WAQSR Chapter 10, Section 4 was adopted by the State and submitted to EPA to meet the requirements for programs related to fire under 40 CFR 51.309(d)(6). Chapter 10, Section 4 seeks to minimize the impacts from private and prescribed burning on visibility in Class I areas and potentially affected populations. EPA is proposing approval of Chapter 10, Section 4 in a separate action.

d. Emission Limitations and Schedules for Compliance

Chapter 6.5 of the State's SIP contains the emission limitations and schedules for compliance for BART sources. Chapter 6.5 of the SIP requires the BART sources to install and demonstrate compliance with the State's BART determination as expeditiously as practicable but no later than five years after EPA approval of the SIP. For some sources where controls have already been installed, the State specifies an earlier compliance deadline in Chapter 6.5 of the SIP. In addition, Chapter 8.3.3 of the SIP contains the emission limits and compliance schedule for LTS controls on Jim Bridger Units 1–4.

e. Source Retirement and Replacement Schedules

The State is not currently aware of any specific scheduled shutdowns, retirements in upcoming years, or replacement schedules, such as planned installation of new control equipment to meet other regulations. If such actions occur, the State will factor them into upcoming reviews.

f. Enforceability of Wyoming's Measures

As discussed in section VII.D of this notice, EPA is proposing to disapprove the State's SIP because it contains inadequate monitoring, recordkeeping, and reporting requirements, and we are proposing a FIP to address the enforceability of BART and reasonable progress controls.

g. Anticipated Net Effect on Visibility Due to Projected Changes

The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions during this planning period is addressed in section VI.D.3 of this notice.

4. Our Conclusions on Wyoming's Long-Term Strategy

We propose to partially approve and partially disapprove Wyoming's LTS. Because we are proposing to disapprove the $NO_X$ BART determinations for PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3, we are also proposing to disapprove the corresponding emission limits and compliance schedules that Wyoming relied on as part of its LTS. Because we are proposing to disapprove the reasonable progress determination for PacifiCorp Dave Johnston Units 1 and 2, we are also proposing to disapprove the LTS because it does not include appropriate $NO_X$ reasonable progress emission limits and compliance schedules for Dave Johnston Units 1 and 2. We are also proposing to disapprove the State's LTS because it does not contain the necessary monitoring, recordkeeping, and reporting requirements to make the BART and reasonable progress limits practically enforceable. Except for these elements, the State's LTS satisfies the requirements of 40 CFR 51.308(d)(3), and we are proposing to approve it.

*F. Coordination of RAVI and Regional Haze Rule Requirements*

Per 40 CFR 51.306(c), the State must provide for review and revision of a coordinated LTS for addressing RAVI and regional haze, and the State must submit the first such coordinated LTS with its first regional haze SIP. The State failed to provide for the coordination of their RAVI and regional haze LTS. We are proposing to disapprove the State's SIP as not meeting the requirements of 40 CFR 51.306(c). We are proposing a FIP as explained in section VII.F of this notice to meet the coordination requirements of 40 CFR 51.306(c).

*G. Monitoring Strategy and Other Implementation Plan Requirements*

40 CFR 51.308(d)(4) requires that the SIP contain a monitoring strategy for measuring, characterizing, and reporting regional haze visibility impairment that is representative of all mandatory Class I Federal areas within the state. This monitoring strategy must be coordinated with the monitoring strategy required in 40 CFR 51.305 for RAVI. As 40 CFR 51.308(d)(4) notes, compliance with this requirement may be met through participation in the IMPROVE network. 40 CFR 51.308(d)(4)(i) further requires the establishment of any additional monitoring sites or equipment needed to assess whether the RPGs for all mandatory Class I Federal areas within the state are being achieved.

Consistent with EPA's monitoring regulations for RAVI and regional haze, Wyoming states in Chapter 9 of the regional haze SIP that it will rely on the IMPROVE network for compliance purposes, in addition to any additional visibility impairment monitoring that may be needed in the future.

Section 51.308(d)(4)(ii) requires that states establish procedures by which monitoring data and other information are used in determining the contribution of emissions from within Wyoming to regional haze visibility impairment at mandatory Class I Federal areas both within and outside the state. The IMPROVE monitoring program is national in scope, and other states have similar monitoring and data reporting

procedures, ensuring a consistent and robust monitoring data collection system. As 40 CFR 51.308(d)(4) indicates, Wyoming's participation in the IMPROVE program constitutes compliance with this requirement.

40 CFR 51.308(d)(4)(iv) requires that the SIP provide for the reporting of all visibility monitoring data to the Administrator, at least annually, for each mandatory Class I Federal area in the state. To the extent possible, Wyoming should report visibility monitoring data electronically. 40 CFR 51.308(d)(4)(vi) also requires that the SIP provide for other elements, including reporting, recordkeeping, and other measures, necessary to assess and report on visibility. We propose that Wyoming's participation in the IMPROVE network ensures that the monitoring data is reported at least annually and is easily accessible; therefore, such participation complies with this requirement. IMPROVE data are centrally compiled and made available to EPA, states and the public via various electronic formats and Web sites including IMPROVE (*http://vista.cira.colostate.edu/improve/*) and VIEWS (*http://vista.cira.colostate.edu/views/*).

40 CFR 51.308(d)(4)(v) requires that Wyoming maintain a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area. The inventory must include emissions for a baseline year, emissions for the most recent year for which data are available, and estimates of future projected emissions. The State must also include a commitment to update the inventory periodically. The State's emission inventory is discussed in section VI.F.1 of this notice. Wyoming states in Chapter 9 of the SIP that it intends to update the Wyoming statewide emissions inventories periodically and review periodic emissions information from other states and future emissions projections. We propose that this satisfies the requirement.

40 CFR 51.308(d)(4)(vi) requires that states provide for any additional reporting, recordkeeping, and measures necessary to evaluate and report on visibility. The State of Wyoming, in accordance with provisions of 40 CFR 51.308(d)(4)(vi), will track data related to regional haze for sources for which the State has regulatory authority, and will depend on the IMPROVE program and RPO sponsored collection and analysis efforts for monitoring and emissions inventory data, respectively. To ensure the availability of data and analyses to report on visibility conditions and progress toward Class I area visibility goals, the State of Wyoming will collaborate with members of a RPO to ensure the continued operation of the IMPROVE program and RPO sponsored technical support analysis tools and systems.

We propose to find that the State's SIP satisfies the requirements of 40 CFR 51.308(d)(4).

*H. Consultation With FLMs*

Although the FLMs are very active in participating in the RPOs, the RHR grants the FLMs a special role in the review of the regional haze SIPs, summarized in section V.H, above. Under 40 CFR 51.308(i)(2), states are obligated to provide the FLMs with an opportunity for consultation, in person, and at least 60 days prior to holding a public hearing on the regional haze SIP. The State provided an opportunity for FLM consultation, in person and at least 60 days prior to holding any public hearing on the SIP. As required by 40 CFR Section 51.308(i)(3), the State has included FLM comments and State responses in Chapter 11 of the Wyoming TSD.

40 CFR 51.308(i)(3) requires that States provide in its regional haze SIP a description of how it addressed any comments provided by the FLMs. The FLMs formally commented on the Wyoming proposed SIP in November and December of 2010. The FLM comments provided support for the modeling approach used by the State in the BART determinations and complimented the State on thorough BART, reasonable progress, and area source analysis. The FLMs also recommended the State reevaluate costs and emission limits for some of the BART and reasonable progress sources. Chapter 11 of the State's TSD provides detailed information on the State's response to FLM comments.

Lastly, 40 CFR 51.308(i)(4) specifies the regional haze SIP must provide procedures for continuing consultation between a State and FLMs on the implementation of the visibility protection program required by 40 CFR 51.308. This includes development and review of implementation plan revisions and five-year progress reports and the implementation of other programs having the potential to contribute to impairment of visibility in mandatory Class I Federal areas. Pursuant to Chapter 11.2 of the SIP, the State will provide the FLMs an opportunity to review and comment on SIP revisions, the five-year progress reports, and other developing programs that may contribute to Class I visibility impairment.

We are proposing that the State's SIP satisfies the requirements of 40 CFR 51.308(i).

*I. Periodic SIP Revisions and 5-Year Progress Reports*

40 CFR 51.308(f) requires a State to revise and submit its regional haze SIP to EPA by July 31, 2018, and every ten years thereafter. Pursuant to Chapter 10 of the SIP, the State will provide this revision. In accordance with the requirements listed in 40 CFR 51.308(g), the State will submit a report on reasonable progress to EPA every five years following the initial submittal of the SIP. That report will be in the form of an implementation plan revision. The State's report will evaluate the progress made toward the RPGs for each mandatory Class I area located within the State and in each mandatory Class I area located outside the State, which have been identified as being affected by emissions from the State. The State will also evaluate the monitoring strategy adequacy in assessing RPGs.

Based on the findings of the five-year progress report, 40 CFR 51.308(h) requires a State to make a determination of adequacy of the current implementation plan. The State must take one or more of the actions listed in 40 CFR 51.308(h)(1) through (4) that are applicable at the same time as the State submits a five-year progress report. Chapter 12 of the SIP requires the State to make an adequacy determination of the current SIP pursuant to 40 CFR 51.308(h)(1) through (4) at the same time a five-year progress report is due.

We propose to find the State's SIP satisfies the requirements of 40 CFR 51.308(f)–(h).

## VII. Federal Implementation Plan

EPA is proposing a FIP to address the deficiencies indentified in our proposed partial disapproval of Wyoming's regional haze SIP. In lieu of this proposed FIP, or a portion thereof, we would propose approval of a SIP revision if the State submits such a revision and the revision matches the terms of our proposed FIP. We encourage the State to submit a SIP revision to replace the FIP, either before or after our final action.

*A. Disapproval of the State's $NO_X$ BART Determinations and Federal Implementation Plan for $NO_X$ BART Determinations and Limits*

As noted above, the State provided five-factor analyses that considered all factors, except analyzing the degree of visibility improvement modeling for each individual pollutant. Thus, in disapproving specific State BART

determinations, we are basing our analysis on information provided by the State in their BART analysis, with the exception of visibility improvement modeling. We have accepted the cost information provided by the State. As discussed above, visibility improvement modeling was performed by the EPA. EPA is proposing to disapprove the State's $NO_X$ BART determinations, and we are proposing to issue a BART FIP, for the following units: PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3. EPA's rationale for disapproving the State's BART determinations for these units, as well as EPA's BART FIP determinations and emission limits, is discussed below.

1. Disapproval of the State's Basin Electric Laramie River Units 1–3 $NO_X$ BART Determination and FIP To Address $NO_X$ BART

Wyoming's $NO_X$ BART Determination

All three units are currently controlled with LNBs with a permit limit of 0.5 lbs/MMBtu (3-hour rolling average). The State determined that new LNBs, OFA, LNBs and OFA, SNCR/SCR hybrid, LNBs and OFA with SNCR, and SCR were technically feasible for reducing $NO_X$ emissions at Units 1–3. The State determined that natural gas reburn was technically infeasible. The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's $NO_X$ BART analysis is provided in Tables 28–30 below. As discussed above, the visibility improvement modeling results in these tables were developed by EPA. Baseline $NO_X$ emissions are 6,320 tpy for Unit 1, 6,285 tpy for Unit 2, and 6,448 tpy for Unit 3 based on an average on 2001–2003 actual emissions.

TABLE 28—SUMMARY OF BASIN ELECTRIC LARAMIE RIVER UNIT 1 $NO_X$ BART ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| OFA | 14.8 | 0.23 | 936 | $625,000 | $668 | 0.08 |
| LNBs | 14.8 | 0.23 | 936 | 1,360,000 | 1,453 | 0.08 |
| LNBs with OFA | 14.8 | 0.23 | 936 | 1,944,000 | 2,077 | 0.08 |
| SNCR/SCR Hybrid | 25.9 | 0.20 | 1,639 | 7,429,000 | 4,534 | ..... |
| LNBs with OFA and SNCR | 55.6 | 0.12 | 3,511 | 7,365,000 | 2,098 | 0.32 |
| SCR | 74.1 | 0.07 | 4,681 | 15,787,000 | 3,372 | 0.44 |

Incremental cost effectiveness for the controls evaluated is as follows: LNBs with OFA and SNCR: $2,105/ton, and SCR: $7,198/ton.

TABLE 29—SUMMARY OF BASIN ELECTRIC LARAMIE RIVER UNIT 2 $NO_X$ BART ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| OFA | 14.3 | 0.23 | 931 | $625,000 | $671 | 0.08 |
| LNBs | 14.3 | 0.23 | 931 | 1,360,000 | 1,461 | 0.08 |
| LNBs with OFA | 14.3 | 0.23 | 931 | 1,944,000 | 2,088 | 0.08 |
| SNCR/SCR Hybrid | 25.5 | 0.20 | 1,630 | 7,429,000 | 4,559 | ..... |
| LNBs with OFA and SNCR | 55.3 | 0.12 | 3,492 | 7,365,000 | 2,109 | 0.32 |
| SCR | 73.9 | 0.07 | 4,656 | 15,787,000 | 3,391 | 0.44 |

Incremental cost effectiveness for the controls evaluated is as follows: LNBs with OFA and SNCR: $2,117/ton; and SCR: $7,242/ton.

TABLE 30—SUMMARY OF BASIN ELECTRIC LARAMIE RIVER UNIT 3 $NO_X$ BART ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| OFA | 16.5 | 0.23 | 955 | $625,000 | $654 | 0.08 |

TABLE 30—SUMMARY OF BASIN ELECTRIC LARAMIE RIVER UNIT 3 $NO_X$ BART ANALYSIS—Continued

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| LNBs | 16.5 | 0.23 | 955 | 1,360,000 | 1,424 | 0.08 |
| LNBs with OFA | 16.5 | 0.23 | 955 | 1,944,000 | 2,036 | 0.08 |
| SNCR/SCR Hybrid | 27.4 | 0.20 | 1,672 | 7,429,000 | 4,444 | ..... |
| LNBs with OFA and SNCR | 56.4 | 0.12 | 3,582 | 7,365,000 | 2,056 | 0.33 |
| SCR | 74.6 | 0.07 | 4,777 | 15,787,000 | 3,305 | 0.44 |

Incremental cost effectiveness for the controls evaluated is as follows: LNBs with OFA and SNCR: $2,064/ton, and SCR: $7,054/ton.

The State eliminated the SNCR/SCR hybrid from further consideration because it has higher cost effectiveness and lower control efficiency compared to new LNBs plus OFA with SNCR.

Based on its consideration of the five factors, the State determined LNBs with OFA was reasonable for $NO_X$ BART. The State determined that the $NO_X$ BART emission limits for Laramie River Unit 1 are 0.23 lb/MMBtu (30-day rolling average), 1,348 lb/hr (30-day rolling average), and 5,343 tpy. The State determined the $NO_X$ BART emission limits for Laramie River Unit 2 are 0.23 lb/MMBtu (30-day rolling average), 1,348 lb/hr (30-day rolling average), and 5,343 tpy. The State determined the $NO_X$ BART emission limits for Laramie River Unit 3 are 0.23 lb/MMBtu (30-day rolling average), 1,386 lb/hr (30-day rolling average), and 5,493 tpy.

The State's proposed SIP required additional $NO_X$ emission reductions for Laramie River under its LTS. Based on the costs and visibility improvement for Laramie River Station Units 1, 2, and 3, the State proposed installation of two SCRs, or equivalent performing emission control systems, at any of the three units. The State proposed that the add-on $NO_X$ control achieve an emission rate, on an individual unit basis, at or below 0.07 lb/MMBtu on a 30-day rolling average. The State proposed that the add-on controls be installed and operational on one of the Laramie River Station units by December 31, 2018 and on a second Laramie River Station unit by December 31, 2023.

On March 8, 2010, Basin Electric Power Cooperative appealed the additional controls proposed by the State under its LTS before the Wyoming Environmental Quality Council. The State entered into a settlement agreement on November 16, 2010 with Basin Electric Power Cooperative (a copy of the settlement agreement is included in the State's revised $NO_X$ BART Analysis for Laramie River dated January 3, 2011). As part of the settlement agreement, the State agreed to remove the requirement for Basin Electric to install additional controls under the LTS. In return, Basin Electric agreed to additional $NO_X$ emissions reductions under BART. Under the settlement agreement, Basin Electric agreed to a $NO_X$ emission limit of 0.21 lb/MMBtu (30-day rolling average) on all three units. Basin Electric also agreed to a $NO_X$ emission limit for Unit 1 and Unit 2 of 4,780 tpy and a $NO_X$ emission limit for Unit 3 of 4,914 tpy, effectively capping emissions from all three units at 12,773 tpy. In the SIP adopted by the State, the State determined the emission limits in the settlement agreement were BART for Basin Electric Laramie River Units 1, 2, and 3.

EPA's Conclusions on Basin Electric Laramie River Units 1–3 $NO_X$ BART Determination and FIP for $NO_X$ BART

EPA does not agree with the State's conclusion that a limit of 0.21 lb/MMBtu is reasonable for BART for Laramie River Units 1, 2, and 3, which can be achieved with the installation and operation of LNBs with OFA. In particular, the cost effectiveness values for LNBs with OFA plus SNCR at this unit is only slightly higher than LNBs with OFA (i.e., about $20/ton), with incremental costs of approximately $2,100.[32] The increase in cost effectiveness for LNBs with OFA plus SNCR affords a visibility improvement of 0.23 delta deciview per unit over LNBs plus OFA. LNBs with OFA plus SNCR would result in total $NO_X$ emissions of 8,468 tpy—4,305 tpy less than the State's BART determination. We find that it was unreasonable for the State not to determine that LNBs with OFA plus SNCR was $NO_X$ BART for Laramie River Units 1–3. Thus, we are proposing to disapprove the State's $NO_X$ BART determination for Basin Electric Laramie River Units 1, 2, and 3 and proposing a FIP for $NO_X$ BART as explained below.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we propose to find that LNBs with OFA plus SNCR at an emission limit of 0.12 lb/MMBtu (30-day rolling average) is reasonable for $NO_X$ BART for Basin Electric Laramie River Units 1, 2, and 3. We are proposing that the FIP $NO_X$ BART emission limit for Basin Electric Laramie River Unit 1, Unit 2, and Unit 3 is 0.12 lb/MMBtu (30-day rolling average).

We have eliminated the single highest performing option from consideration—LNBs with OFA plus SCR—because the cost effectiveness value is significantly higher than LNBs with OFA and there is a comparatively small incremental visibility improvement over LNBs with OFA.

We propose that Basin Electric meet our proposed emission limit at Laramie River Units 1, 2, and 3 no later than five years after EPA finalizes action on our proposed FIP. This is consistent with the requirements of 40 CFR 51.308(e)(iv).

2. Disapproval of the State's PacifiCorp Dave Johnston Unit 3 $NO_X$ BART Determination and FIP To Address $NO_X$ BART

Wyoming's $NO_X$ BART Determination

Dave Johnston Unit 3 is currently uncontrolled for $NO_X$. The State determined LNBs with advanced OFA, LNBs with advanced OFA and SNCR, and LNBs with advanced OFA and SCR were technically feasible for controlling

[32] Since the State did not provide costs for the source to achieve a 0.21 lb/MMBtu emission limit and EPA did not model a 0.21 lb/MMBtu control option, we are basing our analysis on the information for LNBs with OFA at a limit of 0.23 lb/MMBtu.

$NO_X$ emissions from Unit 3. The State did not identify any technically infeasible controls.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. Baseline $NO_X$ emissions are 5,814 tpy for Unit 3 based on unit heat input rate of 2,500 MMBtu/hr and 7,884 hours of operation. A summary of the State's $NO_X$ BART analysis and the visibility impacts is provided in Table 31 below.

TABLE 31—SUMMARY OF DAVE JOHNSTON UNIT 3 $NO_X$ BART ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta deciview for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| LNB with advanced OFA | 46.8 | 0.28 | 2,723 | $1,764,775 | $648 | 0.77 |
| New LNB with advanced OFA and SNCR | 63.9 | 0.19 | 3,717 | 2,679,192 | 721 | 0.94 |
| LNB with advanced OFA and SCR | 86.7 | 0.07 | 5,041 | 16,347,519 | 3,243 | 1.16 |

Incremental cost effectiveness for the controls evaluated is as follows: New LNB with advanced OFA and SNCR: $920/ton, and LNB with advanced OFA and SCR: $10,234/ton.

Based on its consideration of the five factors, the State determined LNBs with OFA was reasonable for $NO_X$ BART. The State determined the cost of compliance (capital costs and annual operating and maintenance costs) were significantly higher for the addition of SCR. The State determined the $NO_X$ BART emission limits for Unit 3 are 0.28 lb/MMBtu (30-day rolling average), 784 lb/hr (30-day rolling average), and 3,434 tpy.

EPA's Conclusions on Dave Johnston Unit 3 $NO_X$ BART Determination and FIP for $NO_X$ BART

EPA does not agree with the State's conclusion that a limit of 0.28 lb/MMBtu is reasonable for $NO_X$ BART for Dave Johnston Unit 3, which can be achieved with the installation and operation on LNBs with OFA. In particular, the cost effectiveness values for LNB with OFA and SNCR at this unit is only $73/ton higher than LNBs with OFA, with incremental costs of $920. The increase in cost effectiveness for LNBs with OFA plus SNCR affords visibility improvement over LNBs plus OFA of 0.17 delta deciview. LNBs with OFA plus SNCR would result in an additional reduction of 994 tons of $NO_X$. We find that it was unreasonable for the State not to determine that LNBs with OFA plus SNCR was $NO_X$ BART for Dave Johnston Unit 3. Thus, we are proposing to disapprove the State's $NO_X$ BART determination for Dave Johnston Unit 3 and proposing a FIP for $NO_X$ BART as explained below.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we propose to find that LNBs with OFA plus SNCR at an emission limit of 0.19 lb/MMBtu (30-day rolling average) is reasonable for $NO_X$ BART for Dave Johnston Unit 3. We are proposing that the FIP $NO_X$ BART emission limit for PacifiCorp Dave Johnston Unit 3 is 0.19 lb/MMBtu (30-day rolling average).

We have eliminated the single highest performing option from consideration—LNBs with OFA plus SCR—because the cost effectiveness value is significantly higher than LNBs with OFA and there is a comparatively small incremental visibility improvement over LNBs with OFA.

We propose that PacifiCorp meet our proposed emission limit at Dave Johnston Unit 3 no later than five years after EPA finalizes action on our proposed FIP. This is consistent with the requirements of 40 CFR 51.308(e)(iv).

3. Disapproval of the State's PacifiCorp Jim Bridger Units 1 and 2 $NO_X$ BART Determination and FIP To Address $NO_X$ BART

Wyoming's $NO_X$ BART Determination

PacifiCorp Jim Bridger Units 1 and 2 are equipped with early generation LNBs with a permit limit of 0.70 lb/MMBtu (3-hour fixed). The State determined that LNBs with SOFA, ROFA, LNBs with SOFA plus SNCR, and LNBs with SOFA plus SCR were technically feasible for controlling $NO_X$ emissions. The State did not identify any technically infeasible options.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, nor are there any remaining-useful-life issues for this source. Baseline $NO_X$ emissions are 10,643 tpy for all both units based on unit heat input rate of 6,000 MMBtu/hr and 7,884 hours of operation. A summary of the State's $NO_X$ BART analysis and the visibility impacts is provided in Table 32 below.[33]

[33] We are assuming the same costs for Unit 2 as the other Jim Bridger Units. The State analyzed Unit 2 using post installation of LNBs/OFA costs so the cost information provided in their analysis is not consistent with an uncontrolled baseline.

TABLE 32—SUMMARY OF JIM BRIDGER UNITS 1 AND 2 $NO_X$ BART ANALYSIS—COSTS PER BOILER

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta deciview for the Maximum 98th Percentile Impact at Mt. Zirkel Wilderness)—Units 1—3/4–[34] |
|---|---|---|---|---|---|---|
| LNB with SOFA | 42.2 | 0.26 | 4,493 | $1,144,969 | $255 | .41/.47 |
| New LNB with SOFA and SNCR | 55.6 | 0.20 | 5,913 | 2,710,801 | 459 | .52/.62 |
| LNB with SOFA and SCR | 84.4 | 0.07 | 8,987 | 20,296,400 | 2,258 | .76/.82 |

Incremental cost effectiveness for the control evaluated is as follows: New LNB with SOFA and SNCR: $1,103/ton, and LNB with SOFA and SCR: $5,721/ton.

Based on its consideration of the five factors, the State determined LNBs with SOFA was reasonable for $NO_X$ BART. The State determined the cost of compliance (capital costs and annual operating and maintenance costs) were significantly higher for the addition of SCR. The State determined the $NO_X$ BART emission limits for Jim Bridger Units 1 and 2 are 0.28 lb/MMBtu (30-day rolling average), 1,560 lb/hr (30-day average), and 6,833 tpy.

PacifiCorp is required to install additional controls under the State's LTS. The State determined that based on the cost of compliance and visibility improvement presented by PacifiCorp in the BART applications for Jim Bridger Units 1 and 2 and taking into consideration the logistical challenge of managing multiple pollution control installations within the regulatory time allotted for installation of BART by the RHR, additional controls would be required under the LTS but not BART. With respect to Jim Bridger Units 1 and 2, the State has required PacifiCorp to install SCR, or other $NO_X$ control systems, to achieve an emission limit or otherwise reduce $NO_X$ emissions to achieve a 0.07 lb/MMBtu 30-day rolling average $NO_X$ emissions rate. PacifiCorp is required to meet the 0.07 lb/MMBtu emission rate on Unit 1 prior to December 31, 2021 and on Unit 2 prior to December 31, 2022.

EPA does not agree with the State's conclusion that a limit of 0.26 lb/MMBtu is reasonable for BART for Jim Bridger Units 1 and 2, which can be achieved with the installation and operation on LNBs with SOFA. In particular, the cost effectiveness values for LNBs with SOFA and SCR at each unit is $2,258 with approximately 0.80 delta deciview visibility improvement. The cost effectiveness values are reasonable and the visibility improvement significant for LNBs with SOFA plus SCR. In addition, the costs are within the range that Wyoming has considered reasonable in the BART context.[35] LNBs with OFA plus SCR would result in an additional reduction of 4,494 tpy of $NO_X$ emissions at each unit. This difference is substantial. We find that it was unreasonable for the State not to determine that LNBs with OFA plus SCR was $NO_X$ BART for Jim Bridger Units 1 and 2. Though the State is requiring the installation of SCR on Units 1 and 2 under its LTS, the compliance date for both installations is beyond the five-years allowed for BART sources by 40 CFR 51.308(e)(iv). Thus, we are proposing to disapprove the State's $NO_X$ BART determination for Jim Bridger Units 1 and 2 and proposing a FIP for $NO_X$ BART as explained below.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we propose to find that LNBs with SOFA plus SCR at an emission limit of 0.07 lb/MMBtu (30-day rolling average) is reasonable for $NO_X$ BART for Jim Bridger Units 1 and 2. Because our examination of the factors leads us to propose SCR is reasonable for BART, we have eliminated SNCR from further consideration. We are proposing that the FIP $NO_X$ BART emission limit for PacifiCorp Units 1 and 2 is 0.07 lb/MMBtu (30-day rolling average).

We propose that PacifiCorp meet our proposed emission limit at Jim Bridger Unit 1 and 2 no later than five years after EPA finalizes action on our proposed FIP. This is consistent with the requirements of 40 CFR 51.308(e)(iv).

4. Proposals in the Alternative for PacifiCorp Jim Bridger Units 1, 2, 3, and 4 $NO_X$ BART

As noted above, EPA is seeking comment on a proposal (''first proposed approach'') to approve in part and disapprove in part the regional haze plan submitted by the State. Among other things, EPA's proposal would determine that BART for Units 1 and 2 of the BART-eligible Jim Bridger power plant is SCR, and would establish corresponding NOx emission limits for these units that would have to be achieved within 5 years of our final action.[36] This would have the effect of accelerating the installation of the SCR controls at these units that the State and source owner (PacifiCorp) had proposed to install later (in the 2021–2022 time-period). The State determined that BART for these units is LNB plus OFA, and selected the 2021–2022 time-period for SCR-based emission limits as a reasonable progress measure. The delay was based on the large number of actions PacifiCorp is undertaking (or helping to finance) at a large number of EGUs in Wyoming, Utah, Colorado, and Arizona that it owns and operates or co-owns.

EPA is also seeking comment on an alternative approach (''second proposed approach'') that differs from our first proposed approach only with regard to Units 3 and 4 at Jim Bridger. The second proposed approach would only differ from the first proposed approach by allowing PacifiCorp to install SCR at Jim Bridger Units 3 and 4 within five years from the date of our final action. This would differ from the first proposed approach that requires PacifiCorp to install SCR at Unit 3 by 2015 and Unit 4 by 2016, while we would still propose SCR on Units 1 and 2 within the five year BART installation timeframe. This second proposed approach would allow PacifiCorp flexibility on timing for the

[34] Unit 4 has different modeling results than the other three units as the stack parameters used in the modeling are different enough from Units 1–3 to yield different modeled results.

[35] Wyoming determined that LNBs with OFA and SCR was BART for Naughton Unit 3. The cost effectiveness of SCR for Naughton Unit 3 is $2,830 with 1.0 deciview of visibility improvement.

[36] The proposed regulatory language for this rulemaking only covers our first proposed approach.

installation of SCR on all four Jim Bridger Units within the BART installation timeline allowed by the RHR. Installing SCR on all four units within the statutory five year period would provide PacifiCorp maximum flexibility to manage the implementation of controls on all the units.

EPA also is seeking comment on another alternative approach (''third proposed approach'') that differs from the first proposed approach only with regard to Units 1 and 2 at Jim Bridger. This third proposed approach would include a different determination regarding BART for these units and would have the effect of approving the state's timeline for the installation of SCR technologies at Units 1 and 2.

PacifiCorp asserted to the State during formulation of the SIP proposal, and has since asserted directly to EPA, that a number of factors, when considered together, suggest that requiring installation of SCR at Jim Bridger Units 1 and 2 earlier than 2021–2022 is not reasonable. First, PacifiCorp points to the large number of retrofit actions it is taking at 20 coal-fired electric generating units in Wyoming, Utah, and Arizona in order to reduce their emissions.[37] These retrofits are intended to comply with the requirements in the regional haze SIPs that these states have submitted to EPA and with other regulatory requirements, including required controls for mercury and acid gases under the recent Mercury and Air Toxics Standards rule. The company claims that there are high capital costs for the measures required for these air quality-improving retrofits. Moreover, PacifiCorp states that accelerating the required installation of SCR at Jim Bridger Units 1 and 2 to late 2017, rather than the 2021 and 2022 dates established by the State, would significantly increase the costs to the utility and to its customers.[38]

In addition, the company asserts that it has designed the installation schedule in order to minimize the number of units that are out of service system wide for installation of emissions controls at any one time. Its goal, it asserts, is to be able to maintain service to its customers with an adequate capacity margin. The company asserts that accelerating the timeline for installation of SCR would upset the orderly shut-down schedule they have devised and would threaten both service interruptions and an increased risk of spot-purchases of more expensive electrical energy, if it is available, to serve customers, but that either eventuality would significantly increase costs to its customers.[39]

Taken together, PacifiCorp claims that the schedule for installation of emissions control devices envisioned in our first proposed approach would be excessively costly and would pose service interruption risks for electrical energy customers over a large part of the region. EPA notes that PacifiCorp has offered these claims taking into account only the requirements in the SIPs that have been submitted to EPA by Wyoming, Utah, Colorado, and Arizona. Today's proposal includes requirements that would likely require the additional installation of SNCRs at two units owned by PacifiCorp in Wyoming. In addition, we have proposed to partially disapprove the SIP for Utah, and the eventual resolution of this disapproval may involve requirements for retrofits of more units owned by PacifiCorp in that state. We have not yet proposed action on the SIP for Arizona, and the possibility that the Cholla power plant that is partially owned by PacifiCorp may require retrofits not already in PacifiCorp's plans, cannot be ruled out at this time.

Based on the claims made both by the State and PacifiCorp and noting the additional requirements in the proposed FIP for Wyoming and the possibility of additional requirements in future FIPs or SIPs in Utah and Arizona, EPA is seeking comment on these assertions of cost infeasibility and risk to electrical power reliability, as well as the desirability of the third proposed approach including the possible rationale for this third approach as described below.

Our third proposed approach has two parts, one addressing BART and one addressing reasonable progress with respect to Jim Bridger. First, EPA would determine that the facts indicate that BART for the all the units at Jim Bridger is SCR when the units are considered individually based on the five factors without regard the status of those factors for other units in the PacifiCorp system. However, when the five factors are considered across all the units in that system, including the fact that EPA's actions on the SIPs for Wyoming, Utah, and Arizona may create additional retrofit obligations for other PacifiCorp-owned EGUs, BART for Jim Bridger as a whole is SCR on Units 3 and 4 and LNB plus OFA on Units 1 and 2. Costs, considered broadly, would be unreasonable to require any further retrofits at this source within 5 years of our final action. We note that the CAA establishes 5 years at the longest period that can be allowed for compliance with BART emission limits.

The second part of our third proposed approach is that EPA would approve the SIP with regard to the State's determination that the appropriate level of $NO_X$ control for Units 1 and 2 at Jim Bridger for purposes of reasonable progress is the SCR-based emission limit in the SIP, with compliance dates of December 31, 2021 for Unit 2 and December 31, 2022 for Unit 1. We believe it may be reasonable and feasible for these retrofits to be completed somewhat earlier than these dates even if, as would be necessary to conclude this third approach to have merit, they cannot be completed within 5 years of our final action. However, in the context of reasonable progress in the second planning period of the regional haze program, we believe it may be appropriate to give considerable deference to the State's conclusions about what controls are reasonable and when they should be implemented. Thus, assuming that we were to finalize this third approach, we do not believe at this time that it would be appropriate to disapprove the State's preferred compliance deadlines for Units 1 and 2.

Under the third proposed approach, we would approve the SIP's provisions for Units 1 and 2 and not adopt a FIP, because while we would disagree with the State's reasoning, we would be agreeing with the outcome in terms of the sequence of emission limits that apply to these units and their compliance deadlines. We would be agreeing with the outcome within the context of the phased regional haze statutory and regulatory framework.

As stated above, we are asking for comments and information pertaining to our second and third proposed approaches. We need more information to be able to support either alternative approach. If we receive such information, we will provide notice to the public on the availability of such information. We request that any information be submitted as soon as possible, but preferably no later than 30 days after the publication date of this notice. We are requesting that information be submitted within this timeframe to give the public an opportunity to review and comment on the information before the end of the comment period.

[37] For a listing of PacifiCorp's retrofit actions, see Table 1 of *Exhibit A—PacifiCorp's Emissions Reductions Plan* in Chapter 6 of the State's TSD.

[38] See *Exhibit A—PacifiCorp's Emissions Reductions Plan* in Chapter 6 of the State's TSD.

[39] See *Exhibit A—PacifiCorp's Emissions Reductions Plan* in Chapter 6 of the State's TSD.

5. Disapproval of the State's PacifiCorp Wyodak Unit 1 $NO_X$ BART Determination and FIP To Address $NO_X$ BART

Wyoming's $NO_X$ BART Determination

Wyodak Unit 1 is currently controlled for $NO_X$ emissions with early generation LNBs with a permit limit of 0.70 lb/MMBtu (3-hour block). The State determined new LNBs with OFA, existing LNBs with ROFA, new LNBs with OFA plus SNCR, and LNBs with OFA plus SCR were technically feasible for controlling $NO_X$ emissions. The State did not identify any technically infeasible control options.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's $NO_X$ BART analyses for Unit 1 is provided in Table 33 below. Baseline $NO_X$ emissions are 5,744 tpy based on the unit heat input rate of 4,700 MMBtu/hr and 7,884 hours of operation per year.

TABLE 33—SUMMARY OF WYODAK UNIT 1 $NO_X$ BART ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| LNBs with OFA | 25.8 | 0.23 | 1,483 | $1,306,203 | $881 | 0.25 |
| LNBs with OFA and SNCR | 41.9 | 0.18 | 2,409 | 2,306,728 | 958 | 0.40 |
| LNBs with OFA and SCR | 77.4 | 0.07 | 4,447 | 18,910,781 | 4,252 | 0.72 |

Incremental cost effectiveness for the controls evaluated is as follows: LNBs with OFA and SNCR: $1,080/ton, and LNBs with OFA and SCR: $8,147/ton.

Based on its consideration of the five factors, the State determined LNBs with OFA was reasonable for $NO_X$ BART for Unit 1. The State determined other control technologies were not reasonable based on the high cost effectiveness and low visibility improvement. The State determined the $NO_X$ BART emission limits for Wyodak Unit 1 are 0.23 lb/MMBtu (30-day rolling average), 1,081 lb/MMBtu (30-day rolling average), and 4,735 tpy.

EPA's Conclusions on Wyodak Unit 1 $NO_X$ BART Determination and FIP for $NO_X$ BART

EPA does not agree with the State's conclusion that a limit of 0.23 lb/MMBtu is reasonable for $NO_X$ BART for Wyodak Unit 1, which can be achieved with the installation and operation of LNBs with OFA. In particular, the cost effectiveness value for LNB with OFA plus SNCR at this unit is only $77/ton higher than LNBs with OFA, with an incremental cost of $1,080. The increase in cost effectiveness for LNBs with OFA plus SNCR affords a visibility improvement of 0.15 deciviews over LNBs plus OFA. LNBs with OFA plus SNCR would result in an additional reduction of around 900 tons of $NO_X$. We find that it was unreasonable for the State not to determine that LNBs with OFA plus SNCR was $NO_X$ BART for Wyodak Unit 1. Thus, we are proposing to disapprove the State's $NO_X$ BART determination for Wyodak Unit 1 and proposing a FIP for $NO_X$ BART as explained below.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we propose to find that LNBs with OFA plus SNCR at an emission limit of 0.18 lb/MMBtu (30-day rolling average) is reasonable for $NO_X$ BART for Wyodak Unit 1. We are proposing that the FIP $NO_X$ BART emission limit for PacifiCorp Wyodak Unit 1 is 0.18 lb/MMBtu (30-day rolling average).

We have eliminated the single highest performing option from consideration—LNBs with OFA plus SCR—because the cost effectiveness value is significantly higher than LNBs with OFA and there is a comparatively small incremental visibility improvement over LNBs with OFA.

We propose that PacifiCorp meet our proposed emission limit at Wyodak Unit 1 no later than five years after EPA finalizes action on our proposed FIP. This is consistent with the requirements of 40 CFR 51.308(e)(iv).

*B. Disapproval of the State's $NO_X$ Reasonable Progress Determinations and Federal Implementation Plan for $NO_X$ Reasonable Progress Determinations and Limits*

We are proposing to disapprove the State's reasonable progress determination for PacifiCorp Dave Johnston Unit 1 and Unit 2, and we are proposing a reasonable progress $NO_X$ FIP for these units, as explained below. As noted above, the State provided four-factor analyses that adequately evaluated the required factors. Thus, in disapproving the State's reasonable progress determination, we are basing our analysis on information provided by the State in its reasonable progress analysis, with the exception of visibility improvement modeling.

We concluded that it is also appropriate for this facility to consider a fifth factor for evaluating potential reasonable progress control options—the degree of visibility improvement that may reasonably be anticipated from the use of the reasonable progress controls. Our reasonable progress guidance contemplates that states (or EPA in lieu of a state) may be able to consider other relevant factors for reasonable progress sources (see EPA's *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program,* (''Reasonable Progress Guidance''), pp. 2–3, July 1, 2007). We find it appropriate, in certain circumstances, to consider visibility improvement when evaluating potential reasonable progress controls. Thus, EPA conducted visibility improvement modeling for Dave Johnston Units 1 and 2.[40]

1. PacifiCorp Dave Johnston—Units 1 and 2

Background

PacifiCorp's Dave Johnston Power Plant is comprised of four units burning pulverized subbituminous Powder River Basin coal. Both are nominal 106 MW pulverized coal-fired units. Unit 1 began operation in 1958 and Unit 2 in 1960.

[40] A summary of EPA's modeling methodology and results can be found in the docket under *EPA BART and RP Modeling for Wyoming Sources.*

Wyoming's $NO_X$ Reasonable Progress Determination

Unit 1 and Unit 2 are currently uncontrolled for $NO_X$ emissions. The State determined that LNBs, LNBs with OFA, SNCR, and SCR were technically feasible for controlling $NO_X$ emissions. The State did not identify any technically infeasible control options.

The State did not identify any energy or non-air quality environmental impacts that would preclude the selection of any of the controls evaluated, and there are no remaining-useful-life issues for this source. A summary of the State's $NO_X$ reasonable progress analyses for Unit 1 and Unit 2, along with our visibility modeling results, is provided in Tables 34 and 35 below. Baseline $NO_X$ emissions are 2,256 tpy for Unit 1 and 2,174 tpy for Unit 2 based on 2002 actual emissions. Wyoming did not provide controlled emission rates in their reasonable progress analysis. EPA calculated the controlled emission rates shown here.

TABLE 34—SUMMARY OF DAVE JOHNSTON UNIT 1 $NO_X$ REASONABLE PROGRESS ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| LNBs | 51 | 0.28 | 1,150 | $631,000 | $528 | 0.37 |
| LNBs with OFA | 65 | 0.20 | 1,466 | 962,000 | 632 | 0.49 |
| SNCR | 40 | 0.35 | 902 | 2,490,000 | 2,659 | 0.26 |
| SCR | 80 | 0.12 | 1,804 | 3,390,000 | 1,810 | 0.58 |

TABLE 35—SUMMARY OF DAVE JOHNSTON UNIT 2 $NO_X$ REASONABLE PROGRESS ANALYSIS

| Control Technology | Control Efficiency (%) | Emission Rate (lb/MMBtu) (30-day Rolling Average) | Emission Reduction (tpy) | Annualized Costs | Average Cost Effectiveness ($/ton) | Visibility Improvement (Delta dv for the Maximum 98th Percentile Impact at Wind Cave National Park) |
|---|---|---|---|---|---|---|
| LNBs | 51 | 0.28 | 1,108 | $631,000 | $538 | 0.38 |
| LNBs with OFA | 65 | 0.20 | 1,413 | 962,000 | 644 | 0.49 |
| SNCR | 40 | 0.35 | 869 | 2,490,000 | 2,709 | 0.28 |
| SCR | 80 | 0.12 | 1,739 | 3,390,000 | 1,844 | 0.58 |

The State estimated that it would take nearly five and a half years for $NO_X$ reduction strategies to become effective. The State determined that roughly two years would be necessary for the State to develop the necessary regulations to implement the selected control measures. The State estimated that it would take up to a year for the source to secure the capital necessary to purchase emission control devices and approximately 18 months would be required for the company to design, fabricate, and install SCR or SNCR technology. Since there are two boilers being evaluated at Dave Johnston, the State determined an additional year may be required for staging the installation process.

The State determined that no controls were reasonable for this planning period. The State cited that the four-factor analysis was limited, in that no guidance was provided by EPA for identifying significant sources and EPA did not establish contribution to visibility impairment thresholds (a potential fifth factor for reasonable progress determinations).[41] The State further claims that the State cannot, per Wyoming Statute 35–11–202, establish emission control requirements except through State rule or regulation. Furthermore, the Wyoming statute requires the State to consider the character and degree of injury of the emissions involved. In this case, the State claims it would need to have visibility modeling that assessed the degree of injury caused by the emissions, which the State does not have. The State believes it has taken a strong and reasonable first step in identifying potential contributors to visibility impairment, and that the next step of creating an appropriate rule or regulation will be accomplished in the next SIP revision.

[41] States must consider the four factors as listed above but can also take into account other relevant factors for the reasonable progress sources identified (see EPA's *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program,* (''EPA's Reasonable Progress Guidance''), p. 2–3, July 1, 2007).

EPA's Conclusions on Dave Johnston Units 1 and 2 $NO_X$ Reasonable Progress Determination and FIP for $NO_X$ Reasonable Progress Controls

We disagree with the State's reasoning for not adopting reasonable progress controls for Dave Johnston Unit 1 and Unit 2. If the State determined that it needed to adopt a rule or perform modeling to adequately assess and, if warranted, require reasonable progress controls, the State should have completed these steps before it submitted its regional haze SIP. The RHR does not allow for commitments to potentially implement strategies at some later date that are identified under reasonable progress or for the State to take credit for such commitments.

In addition, the cost effectiveness values for LNBs with OFA at each unit are $632 and $644 per ton. These values are very reasonable and far less than some of the cost effectiveness values the State found reasonable in making its BART determinations. Given predicted $NO_X$ reductions of approximately 1,400 tpy per unit, visibility improvement of

approximately 0.5 deciviews per unit, and the fact that Wyoming's reasonable progress goals will not meet the URP, we find that it was unreasonable for the State to reject these very inexpensive controls. Thus, we are proposing to disapprove the State's $NO_X$ reasonable progress determination for Dave Johnston Unit 1 and Unit 2 and proposing a FIP for $NO_X$ reasonable progress controls as explained below.

Based on our examination of the State's costs estimates, emission reductions, and the predicted visibility improvement, we propose to find that LNBs with OFA at an emission limit of 0.20 lb/MMBtu (30-day rolling average) is reasonable for $NO_X$ reasonable progress controls for Dave Johnston Units 1 and 2. We are proposing that the FIP $NO_X$ reasonable progress emission limit for PacifiCorp Dave Johnston Unit 1 and Unit 2 is 0.20 lb/MMBtu (30-day rolling average).

We have eliminated higher performing options from consideration—LNBs with OFA plus SCR—because the cost effectiveness values are significantly higher than LNBs with OFA and there is a comparatively small incremental visibility improvement over LNBs with OFA.

We propose that PacifiCorp meet our proposed emission limit at Dave Johnston Units 1 and 2 as expeditiously as possible, but no later than July 31, 2018. This is consistent with the requirement that the SIP cover an initial planning period that ends July 31, 2018.

*C. Reasonable Progress Goals*

We are proposing to impose reasonable progress controls on Dave Johnston Units 1 and 2, as well as more stringent $NO_X$ BART controls on PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3, than WRAP assumed in modeling Wyoming's RPGs.

We could not re-run the WRAP modeling due to time and resource constraints, but anticipate that the additional controls would result in an increase in visibility improvement during the 20% worst days. As noted in our analyses, many of our proposed controls would result in significant incremental visibility benefits when modeled against natural background. We anticipate that this would translate into some measurable improvement if modeled on the 20% best days as well. While we expect our proposed controls will result in additional visibility improvement, we do not expect that these improvements will result in the State achieving the URP. For the reasons discussed in section VI.D.3, we find it reasonable for the State to not achieve the URP during this planning period. We expect the State to quantify the visibility improvement in its next regional haze SIP revision.

For purposes of this action, we are proposing RPGs that are consistent with the additional controls we are proposing. While we would prefer to quantify the RPGs, we note that the RPGs themselves are not enforceable values. The more critical elements for our FIP are the emissions limits we are proposing to impose, which will be enforceable.

*D. Federal Monitoring, Recordkeeping, and Reporting Requirements*

The CAA requires that SIPs, including the regional haze SIP, contain elements sufficient to ensure emission limits are practically enforceable.[42] Other applicable regulatory provisions are contained in Appendix V to Part 51—Criteria for Determining the Completeness of Plan Submissions.[43] We are proposing to find that the State's regional haze SIP does not contain adequate monitoring, recordkeeping and reporting requirements. Chapter 6.4, Section V of the SIP contains monitoring and reporting requirements that we find inadequate for numerous reasons, summarized as follows: (1) The State's language includes references to WAQSR Chapters that EPA has not approved as part of the SIP and are thus not federally enforceable. These references should be to the appropriate sections in the CFR; (2) Definitions have not been included; (3) The State's language allows for data substitution pursuant to 40 CFR part 75. The data substitution procedures of 40 CFR part 75 were never intended to apply to BART sources; (4) There are numerous language clarifications and rewordings needed; and (5) The State did not include appropriate recordkeeping language.[44]

EPA is proposing to disapprove the State's monitoring, recordkeeping, and reporting requirements in Chapter 6.4 of the SIP. EPA is proposing regulatory language as part of our FIP that specifies monitoring, recordkeeping, and reporting requirements for all BART and reasonable progress sources. For purposes of consistency, EPA is proposing to adopt language that is the same we have adopted for other states in Region 8.

*E. Federal Implementation Plan for the Long-Term Strategy*

We are proposing regulatory language as part of our FIP that specifies $NO_X$ emission limits and compliance schedules for the following sources: PacifiCorp Dave Johnston Units 1–3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3. We are also proposing monitoring, recordkeeping, and reporting requirements for all BART SIP and FIP sources and for Dave Johnston Units 1 and 2. We are proposing this regulatory language to fill the gap in the LTS that would be left by our proposed partial disapproval of the LTS.

*F. Federal Implementation Plan for Coordination of RAVI and Regional Haze Long-Term Strategy*

In response to EPA's RAVI rules, Wyoming adopted WAQSR Chapter 9, Section 2. EPA approved WAQSR Chapter 9, Section 2 as part of the SIP on July 28, 2004 (69 FR 44965). As discussed above, the State is required to coordinate the review of its RAVI and regional haze LTS and conduct the reviews together. WAQSR Chapter 9, Section 2(f) requires the State to review its RAVI LTS every three years, which does not coordinate with the five-year review for the State's regional haze LTS.

[42] CAA Section 110(a)(2) states that SIPs "shall (A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter; (C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter; (F) require, as may be prescribed by the Administrator—(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection"

[43] Appendix V part 51 states in section 2.2 that complete SIPs contain: "(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels"; and "(h) Compliance/enforcement strategies, including how compliance will be determined in practice."

[44] On July 6, 2011, EPA sent an email to the State with detailed comments (that are summarized above) on the State's monitoring, recordkeeping, and reporting requirements in Chapter 6.4, Section V of the SIP. The July 6, 2011 email from Laurel Dygowski, EPA Region 8, to Tina Anderson, State of Wyoming, is included in the Supporting and Related Materials section of the docket.

Thus, we are proposing to disapprove the State's SIP because it does not meet the requirements of 40 CFR 51.306(c). We are proposing a FIP in which EPA commits to coordinating the State's RAVI LTS review with the regional haze LTS review. Thus, EPA is committing to provide a review of the State's RAVI LTS every five years in coordination with the State's regional haze LTS review. EPA is proposing that our review of the State's RAVI LTS will follow those items as indicated by 40 CFR 51.306(c).

## VIII. EPA's Proposed Action

EPA is proposing to partially approve and partially disapprove a regional haze SIP revision submitted by the State of Wyoming on January 12, 2011. Specifically, we are proposing to disapprove the following:

- The State's $NO_X$ BART determinations for PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and, 3.
- The State's $NO_X$ reasonable progress determination for PacifiCorp Dave Johnston Units 1 and 2.
- Wyoming's Reasonable Progress Goals (RPGs)
- The State's monitoring and recordkeeping requirements in Chapter 6.4 of the SIP.
- Portions of the State's long-term strategy (LTS) that rely on or reflect other aspects of the regional haze SIP we are proposing to disapprove.
- The State's SIP because it does not contain the necessary provisions to meet the requirements for the coordination of the review of the reasonably attributable visibility impairment (RAVI) and the regional haze long-term strategy (LTS).

We are proposing to approve the remaining aspects of the State's January 12, 2011, SIP submittal. We are also seeking comment on two alternative proposals related to the State's $NO_X$ BART determination for PacifiCorp Jim Bridger Units 1 and 2.

We are proposing the promulgation of a FIP to address the deficiencies in the Wyoming regional haze SIP that we have identified in this proposal. The proposed FIP includes the following elements:

- $NO_X$ BART determinations and limits for PacifiCorp Dave Johnston Unit 3, PacifiCorp Jim Bridger Units 1 and 2, PacifiCorp Wyodak Unit 1, and Basin Electric Laramie River Units 1, 2, and 3.
- $NO_X$ reasonable progress determination and limits for PacifiCorp Dave Johnston Units 1 and 2.
- RPGs consistent with the SIP limits proposed for approval and the proposed FIP limits.
- Monitoring, record-keeping, and reporting requirements applicable to all BART and reasonable progress sources for which there is a SIP or FIP emissions limit.
- LTS elements pertaining to emission limits and compliance schedules for the proposed BART and reasonable progress FIP limits.
- Provisions to ensure the coordination of the RAVI and regional haze LTS.

## IX. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). As discussed in section C below, the proposed FIP applies to only four facilities. It is therefore not a rule of general applicability.

### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). Because the proposed FIP applies to just four facilities, the Paperwork Reduction Act does not apply. See 5 CFR 1320(c).

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The Regional Haze FIP that EPA is proposing for purposes of the regional haze program consists of imposing federal controls to meet the BART requirement for $NO_X$ emissions on specific units at four sources in Wyoming, and imposing controls to meet the reasonable progress requirement for $NO_X$ emissions at one additional source in Wyoming. The net result of this FIP action is that EPA is proposing direct emission controls on selected units at only four sources. The sources in question are each large electric generating plants that are not owned by small entities, and therefore are not small entities. The proposed partial approval of the SIP, if finalized, merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. *See Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985).

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

### *D. Unfunded Mandates Reform Act (UMRA)*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more (adjusted for inflation) in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 of UMRA do not apply when they are inconsistent with applicable law. Moreover, section 205 of UMRA allows

EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Under Title II of UMRA, EPA has determined that this proposed rule does not contain a federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of $100 million by State, local, or Tribal governments or the private sector in any one year. In addition, this proposed rule does not contain a significant federal intergovernmental mandate as described by section 203 of UMRA nor does it contain any regulatory requirements that might significantly or uniquely affect small governments.

*E. Executive Order 13132: Federalism*

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely addresses the State not fully meeting its obligation to prohibit emissions from interfering with other states measures to protect visibility established in the CAA. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comment on this proposed rule from state and local officials.

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

Executive Order 13175, entitled *Consultation and Coordination With Indian Tribal Governments* (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes. However, to the extent this proposed rule will limit emissions of $NO_x$, $SO_2$, and PM, the rule will have a beneficial effect on children's health by reducing air pollution.

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

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

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

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

We have determined that this proposed action, if finalized, will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed rule limits emissions of $NO_X$ from four facilities in Wyoming.

The partial approval of the SIP, if finalized, merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: May 15, 2012.

**James B. Martin,**

*Regional Administrator, Region 8.*

40 CFR part 52 is proposed to be amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart ZZ—Wyoming

2. Add section 52.2636 to read as follows:

### § 52.2636 Federal implementation plan for regional haze.

(a) *Applicability.* This section applies to each owner and operator of the following emissions units in the State of Wyoming for which EPA proposes to approve the State's BART determination:

FMC Westvaco Trona Plant Units NS–1A and NS–1B (PM and $NO_X$);

TATA Chemicals Partners (previously General Chemical) Boilers C and D (PM and $NO_X$);

Basin Electric Power Cooperative Laramie River Station Units 1, 2, and 3 (PM);

Pacificorp Dave Johnston Power Plant Unit 3 (PM);

Pacificorp Dave Johnston Power Plant Unit 4 (PM and $NO_X$);

Pacificorp Jim Bridger Power Plant Units 1 and 2 (PM);

Pacificorp Jim Bridger Power Plant Units 3 and 4 (PM and $NO_X$);

Pacificorp Naughton Power Plant Units 1, 2, and 3 (PM and $NO_X$); and

Pacificorp Wyodak Power Plant Unit 1 (PM).

This section also applies to each owner and operator of the following emissions units in the State of Wyoming for which EPA proposes to disapprove the State's BART determination and issue a $NO_X$ BART Federal Implementation Plan:

Basin Electric Power Cooperative Laramie River Station Units 1, 2, and 3;

Pacificorp Dave Johnston Power Plant Unit 3;

Pacificorp Jim Bridger Power Plant Units 1 and 2; and

Pacificorp Wyodak Power Plant Unit 1.

This section also applies to each owner and operator of the following emissions units in the State of Wyoming for which EPA proposes to disapprove the State's reasonable progress determinations and issue a reasonable progress determination $NO_X$ Federal Implementation Plan: Pacificorp Dave Johnston Power Plant Units 1 and 2.

(b) *Definitions.* Terms not defined below shall have the meaning given them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this section:

(1) *BART* means Best Available Retrofit Technology.

(2) *BART unit* means any unit subject to a Regional Haze emission limit in Table 1 and Table 2 of this section.

(3) *CAM* means Compliance Assurance Monitoring as required by 40 CFR part 64.

(4) *Continuous emission monitoring system or CEMS* means the equipment required by this section to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of $NO_X$ emissions, diluent, or stack gas volumetric flow rate.

(5) *FIP* means Federal Implementation Plan.

(6) *Lb/hr* means pounds per hour.

(7) *Lb/MMBtu* means pounds per million British thermal units of heat input to the fuel-burning unit.

(8) *$NO_X$* means nitrogen oxides.

(9) *Operating day* means a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the BART or RP unit. It is not necessary for fuel to be combusted for the entire 24-hour period.

(10) The *owner/operator* means any person who owns or who operates, controls, or supervises a unit identified in paragraph (a) of this section.

(11) *PM* means filterable total particulate matter.

(12) *RP unit* means any Reasonable Progress unit subject to a Regional Haze emission limit in Table 3 of this section.

(13) *Unit* means any of the units identified in paragraph (a) of this section.

(c) *Emissions limitations.*

(1) The owners/operators of emissions units subject to this section shall not emit, or cause to be emitted, PM or $NO_X$ in excess of the following limitations:

TABLE 1—EMISSION LIMITS FOR BART UNITS FOR WHICH EPA PROPOSES TO APPROVE THE STATE'S BART DETERMINATION

| Source Name/BART Unit | PM Emission Limits | | | $NO_X$ Emission Limits | | |
|---|---|---|---|---|---|---|
| | lb/MMBtu | lb/hr | Tons per year | lb/MMBtu | lb/hr | Tons per year |
| FMC Westvaco Trona Plant/Unit NS–1A | 0.05 | 45 | 197 | 0.35 | 284 | 1244 |
| FMC Westvaco Trona Plant/Unit NS–1B | 0.05 | 45 | 197 | 0.35 | 284 | 1244 |
| TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler C | 0.09 | 50 | 219 | 0.28 | 149.5 | 654.9 |
| TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler D | 0.09 | 80 | 350.4 | 0.28 | 246.4 | 1,079.2 |
| Basin Electric Power Cooperative Laramie River Station/Unit 1 | 0.03 | 193 | 844 | N/A | N/A | N/A |
| Basin Electric Power Cooperative Laramie River Station/Unit 2 | 0.03 | 193 | 844 | N/A | N/A | N/A |
| Basin Electric Power Cooperative Laramie River Station/Unit 3 | 0.03 | 198 | 867 | N/A | N/A | N/A |
| Pacificorp Dave Johnston Power Plant/Unit 3 | 0.015 | 42.1 | 184 | N/A | N/A | N/A |
| Pacificorp Dave Johnston Power Plant/Unit 4 | 0.015 | 61.5 | 269 | 0.15 | 615 | 2,694 |

TABLE 1—EMISSION LIMITS FOR BART UNITS FOR WHICH EPA PROPOSES TO APPROVE THE STATE'S BART DETERMINATION—Continued

| Source Name/BART Unit | PM Emission Limits | | | $NO_X$ Emission Limits | | |
|---|---|---|---|---|---|---|
| | lb/MMBtu | lb/hr | Tons per year | lb/MMBtu | lb/hr | Tons per year |
| Pacificorp Jim Bridger Power Plant/Unit 1 | 0.03 | 180 | 788 | N/A | N/A | N/A |
| Pacificorp Jim Bridger Power Plant/Unit 2 | 0.03 | 180 | 788 | N/A | N/A | N/A |
| Pacificorp Jim Bridger Power Plant/Unit 3 | 0.03 | 180 | 788 | 0.07 | N/A | N/A |
| Pacificorp Jim Bridger Power Plant/Unit 4 | 0.03 | 180 | 788 | 0.07 | N/A | N/A |
| Pacificorp Naughton Power Plant/Unit 1 | 0.04 | 74 | 324 | 0.26 | 481 | 2,107 |
| Pacificorp Naughton Power Plant/Unit 2 | 0.04 | 96 | 421 | 0.26 | 624 | 2,733 |
| Pacificorp Naughton Power Plant/Unit 3 | 0.015 | 56 | 243 | 0.07 | 259 | 1,134 |
| Pacificorp Wyodak Power Plant/Unit 1 | 0.015 | 71 | 308.8 | N/A | N/A | N/A |

TABLE 2—EMISSION LIMITS FOR BART UNITS FOR WHICH EPA PROPOSES TO DISAPPROVE THE STATE'S BART DETERMINATION AND IMPLEMENT A FIP

| Source Name/BART Unit | $NO_X$ Emission Limit (lb/MMBtu) |
|---|---|
| Basin Electric Power Cooperative Laramie River Station/Unit 1 | 0.12 |
| Basin Electric Power Cooperative Laramie River Station/Unit 2 | 0.12 |
| Basin Electric Power Cooperative Laramie River Station/Unit 3 | 0.12 |
| Pacificorp Dave Johnston Power Plant/Unit 3 | 0.19 |
| Pacificorp Jim Bridger Power Plant/Unit 1 | 0.07 |
| Pacificorp Jim Bridger Power Plant/Unit 2 | 0.07 |
| Pacificorp Wyodak Power Plant/Unit 1 | 0.18 |

TABLE 3—EMISSION LIMITS FOR RP UNITS FOR WHICH EPA PROPOSES TO DISAPPROVE THE STATE'S RP DETERMINATION AND IMPLEMENT A FIP

| Source Name/RP Unit | $NO_X$ Emission Limit (lb/MMBtu) |
|---|---|
| Pacificorp Dave Johnston Power Plant/Unit 1 | 0.20 |
| Pacificorp Dave Johnston Power Plant/Unit 2 | 0.20 |

(2) These emission limitations shall apply at all times, including startups, shutdowns, emergencies, and malfunctions.

(d) *Compliance date.* The owners and operators of the BART and RP sources subject to this section shall comply with the emissions limitations and other requirements of this section within five years of the effective date of this rule

(e) *Compliance determinations for $NO_X$.*

(1) For all BART and RP units other than Trona Plant units:

(i) *CEMS.* At all times after the compliance date specified in paragraph (d) of this section, the owner/operator of each unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure $NO_X$, diluent, and stack gas volumetric flow rate from each unit. The CEMS shall be used to determine compliance with the emission limitations in paragraph (c) of this section for each unit.

(ii) *Method.*

(*a*) For any hour in which fuel is combusted in a unit, the owner/operator of each unit shall calculate the hourly average $NO_X$ concentration in lb/MMBtu and lb/hr at the CEMS in accordance with the requirements of 40 CFR part 75. At the end of each operating day, the owner/operator shall calculate and record a new 30-day rolling average emission rate in lb/MMBtu and lb/hr from the arithmetic average of all valid hourly emission rates from the CEMS for the current operating day and the previous 29 successive operating days.

(*b*) An hourly average $NO_X$ emission rate in lb/MMBtu or lb/hr is valid only if the minimum number of data points, as specified in 40 CFR part 75, is acquired by both the pollutant concentration monitor ($NO_X$) and the diluent monitor ($O_2$ or $CO_2$).

(*c*) Compliance with tons-per-year emission limits shall be calculated on a rolling 12-month basis. At the end of each calendar month, the owner/operator shall calculate and record a new 12-month rolling average emission rate from the arithmetic average of all valid hourly emission rates from the CEMS for the current month and the previous 11 months and the report the result in tons.

(*d*) Data reported to meet the requirements of this section shall not include data substituted using the missing data substitution procedures of subpart D of 40 CFR part 75, nor shall the data have been bias adjusted according to the procedures of 40 CFR part 75.

(2) For all Trona Plant BART units:

(i) *CEMS.* At all times after the compliance date specified in paragraph (d) of this section, the owner/operator of each unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 60, to accurately measure $NO_X$, diluent, and stack gas volumetric flow rate from each unit, including the CEMS quality assurance requirements in appendix F of 40 CFR part 60. The CEMS shall be used to determine compliance with the emission limitations in paragraph (c) of this section for each unit.

(ii) *Method.*

(*a*) For any hour in which fuel is combusted in a unit, the owner/operator of each unit shall calculate the hourly average $NO_X$ concentration in lb/MMBtu and lb/hr at the CEMS in accordance with the requirements of 40 CFR part 60. At the end of each operating day, the owner/operator shall calculate and record a new 30-day rolling average emission rate in lb/MMBtu and lb/hr from the arithmetic average of all valid hourly emission rates from the CEMS for the current operating day and the previous 29 successive operating days.

(*b*) An hourly average $NO_X$ emission rate in lb/MMBtu or lb/hr is valid only if the minimum number of data points, as specified in 40 CFR part 60, is acquired by both the pollutant concentration monitor ($NO_X$) and the diluent monitor ($O_2$ or $CO_2$).

(*c*) Compliance with tons-per-year emission limits shall be calculated on a rolling 12-month basis. At the end of each calendar month, the owner/operator shall calculate and record a new 12-month rolling average emission rate from the arithmetic average of all valid hourly emission rates from the CEMS for the current month and the previous 11 months and report results in tons.

(f) *Compliance determinations for particulate matter.*

Compliance with the particulate matter emission limit for each BART and RP unit shall be determined from annual performance stack tests. Within 60 days of the compliance deadline specified in section (d), and on at least an annual basis thereafter, the owner/operator of each unit shall conduct a stack test on each unit to measure particulate emissions using EPA Method 5, 5B, 5D, or 17, as appropriate, in 40 CFR part 60, Appendix A. A test shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a minimum sample of 60 dry standard cubic feet. Results shall be reported in lb/MMBtu and lb/hr. In addition to annual stack tests, the owner/operator shall monitor particulate emissions for compliance with the BART emission limits in accordance with the applicable Compliance Assurance Monitoring (CAM) plan developed and approved by the State in accordance with 40 CFR part 64.

(g) *Recordkeeping.* The owner/operator shall maintain the following records for at least five years:

(1) All CEMS data, including the date, place, and time of sampling or measurement; parameters sampled or measured; and results.

(2) Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR part 75. Or, for Trona Plant units, records of quality assurance and quality control activities for emissions measuring systems including, but not limited to appendix F of 40 CFR part 60.

(3) Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.

(4) Any other CEMS records required by 40 CFR part 75. Or, for Trona Plant units, any other CEMs records required by 40 CFR part 60.

(5) Records of all particulate stack test results.

(6) All data collected pursuant to the CAM plan.

(h) *Reporting.* All reports under this section shall be submitted to the Director, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8, Mail Code 8ENF–AT, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

(1) The owner/operator of each unit shall submit quarterly excess emissions reports for $NO_X$ BART and RP units no later than the 30th day following the end of each calendar quarter. Excess emissions means emissions that exceed the emissions limits specified in paragraph (c) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted. The owner/operator shall also submit reports of any exceedances of tons-per-year emission limits.

(2) The owner/operator of each unit shall submit quarterly CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments. The owner/operator of each unit shall also submit results of any CEMS performance tests required by 40 CFR part 75. Or, for Trona Plant units, the owner/operator of each unit shall also submit results of any CEMs performance test required appendix F of 40 CFR part 60 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

(3) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, such information shall be stated in the quarterly reports required by sections (h)(1) and (2) above.

(4) The owner/operator of each unit shall submit results of any particulate matter stack tests conducted for demonstrating compliance with the particulate matter BART limits in section (c) above, within 60 calendar days after completion of the test.

(5) The owner/operator of each unit shall submit semi-annual reports of any excursions under the approved CAM plan in accordance with the schedule specified in the source's title V permit.

(i) *Notifications.*

(1) The owner/operator shall submit notification of commencement of construction of any equipment which is being constructed to comply with the $NO_X$ emission limits in paragraph (c) of this section.

(2) The owner/operator shall submit semi-annual progress reports on construction of any such equipment.

(3) The owner/operator shall submit notification of initial startup of any such equipment.

(j) *Equipment operation.* At all times, the owner/operator shall maintain each unit, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions.

(k) *Credible Evidence.* Nothing in this section shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with requirements of this section if the appropriate performance or compliance test procedures or method had been performed.

3. Add section 52.2637 to read as follows:

**§ 52.2637 Federal implementation plan for reasonable attributable visibility impairment long-term strategy.**

As required by 40 CFR 41.306(c), EPA will ensure that the review of the State's reasonably attributable visibility impairment long-term strategy is coordinated with the regional haze long-term strategy under 40 CFR 51.308(g). EPA's review will be in accordance with the requirements of 40 CFR 51.306(c).

[FR Doc. 2012–12923 Filed 6–1–12; 8:45 am]

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# Reader Aids

**Federal Register**

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