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WHEN: Tuesday, July 10, 2012
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RESERVATIONS: (202) 741–6008

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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 LABOR RELATIONS AUTHORITY

5 CFR Parts 2422, 2423, and 2429

Representation Proceedings, Unfair Labor Practice Proceedings, and Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (the FLRA) is engaged in an initiative to make electronic filing, or ''eFiling,'' available to parties in all cases before the FLRA. Making eFiling available to its parties is another way in which the FLRA is using technology to improve the customer-service experience. EFiling also is expected to increase efficiencies by reducing procedural filing errors and resulting processing delays.

DATES: *Effective Date:* July 25, 2012.

ADDRESSES: Written comments can be emailed to *engagetheflra@flra.gov* or sent to the Office of General Counsel, Federal Labor Relations Authority, Suite 200, 1400 K Street NW., Washington, DC 20424–0001. All written comments will be available for public inspection during normal business hours at the Office of General Counsel.

FOR FURTHER INFORMATION CONTACT: Dennis P. Walsh, Deputy General Counsel, (202) 218–7741; or email: *engagetheflra@flra.gov*.

SUPPLEMENTARY INFORMATION: In the first stage of its eFiling initiative, the FLRA enabled parties to use eFiling to file requests for Federal Service Impasses Panel assistance in the resolution of negotiation impasses. *See* 77 FR 5987 (Feb. 7, 2012). The second stage of the FLRA's eFiling initiative provided parties with an option to use the FLRA's eFiling system to electronically file 11 types of documents in cases that are filed with the FLRA's three-Member adjudicatory body, the Authority. Parties may now eFile such documents.

The third and last stage of the FLRA's eFiling initiative is the subject of this final rule. In this stage, parties will be able to use the FLRA's eFiling system to file certain documents involved in representation (part 2422) and unfair labor practice (part 2423) proceedings. This rule modifies the FLRA's existing regulations to allow for eFiling of the documents described below. The rule also clarifies some of the procedural regulations as required under the Plain Writing Act of 2010, 5 U.S.C. 301 note. In addition, the rule expressly sets forth the Authority's existing practice of requiring parties to serve Regional Directors with applications for review filed pursuant to 5 CFR 2422.31.

As the FLRA's eFiling procedures develop, the revisions set forth in this action may be evaluated and revised further.

Sectional Analyses

Sectional analyses of the amendments and revisions to part 2422, Representation Proceedings, part 2423, Unfair Labor Practice Proceedings, and part 2429, Miscellaneous and General Requirements, are as follows:

Part 2422—Representation Proceedings

Sections 2422.1 and 2422.2

These sections are amended to be consistent with the Plain Writing Act guidelines.

Section 2422.3

This section is amended to state that petitioners may file a representation petition electronically through use of the FLRA's eFiling system on the FLRA's Web site at *www.flra.gov*. Paragraph (a) of this section is amended to state that a petitioner should provide a fax number and email address (if known) for each entity listed.

Section 2422.4

This section is amended to be consistent with the Plain Writing Act guidelines.

Section 2422.5

Paragraph (b) of this section is amended to state that if a petitioner files a petition electronically through the use of the FLRA's eFiling system at the FLRA's Web site at *www.flra.gov* or by facsimile transmission, then it is not necessary to file an original copy with the Region, but the petitioner assumes responsibility for the Region's receipt of the petition.

Paragraph (c) of this section is amended to state that a petition filed electronically through the use of the FLRA's eFiling system at the FLRA's Web site at *www.flra.gov* or by facsimile transmission is deemed received and docketed by the Region on the business day the Region receives it up until midnight local time. If received after midnight local time, it is deemed received and docketed on the next business day.

Sections 2422.6 and 2422.7

These sections are amended to be consistent with the Plain Writing Act guidelines.

Section 2422.8

Paragraph (b) of this section is amended to provide for the filing of a cross-petition electronically through the use of the FLRA's eFiling system at the FLRA's Web site at *www.flra.gov* or by facsimile transmission.

Sections 2422.9 Through 2422.34

These sections are amended to be consistent with the Plain Writing Act guidelines. In addition, section 2422.31(a) is amended to set forth the Authority's existing practice of requiring parties to serve Regional Directors with applications for review.

Part 2423—Unfair Labor Practice Proceedings

Section 2423.0

This section is amended to state that part 2423 is applicable to any unfair labor practice cases that are pending or filed with the FLRA on or after July 25, 2012.

Sections 2423.1 Through 2423.3

These sections are amended to be consistent with the Plain Writing Act guidelines.

Section 2423.4

Paragraph (a) is amended to provide for filing a charge electronically through the use of the eFiling system on the FLRA's Web site at *www.flra.gov* or by facsimile transmission. In addition, if known, the Charging Party must indicate the facsimile numbers and

email addresses for all parties and contact persons.

Section 2423.5

This section is amended to be consistent with the Plain Writing Act guidelines.

Section 2423.6

Paragraph (b) is amended to provide for the dates of filing for charges filed electronically through the use of the eFiling system on the FLRA's Web site at *www.flra.gov* or by facsimile transmission. A charge filed by either of these methods is deemed filed on the day it is received in a Region up until midnight local time. If received after midnight it is deemed received on the next business day.

Sections 2423.7 Through 2423.10

These sections are amended to be consistent with the Plain Writing Act guidelines.

Section 2423.11

Paragraph (c) is amended to provide for an option for filing an appeal of a Regional Director's decision to dismiss a charge by email to *ogc.appeals@flra.gov.*

Paragraph (d) is amended to provide for an option for filing a request for an extension of time to file an appeal by email to *ogc.appeals@flra.gov.*

Section 2423.12

This section is amended to be consistent with the Plain Writing Act guidelines.

Part 2429—Miscellaneous and General Requirements

Section 2429.24

Paragraph (f) is amended to add three documents (12–14) to the list of documents that a party may file alternatively by electronic means through the use of the FLRA's eFiling service: (12) petition under 5 CFR part 2422; (13) cross-petition under 5 CFR part 2422; and (14) unfair labor practice charge under 5 CFR part 2423.

Paragraph (g) is amended to add an appeal of a dismissal of an unfair labor practice charge under 5 CFR part 2423 as document that a Charging Party may file by facsimile transmission.

Executive Order 12866

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 12866.

Executive Order 13132

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 13132.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this rule, as amended, will not have a significant impact on a substantial number of small entities, because this rule applies only to federal agencies, federal employees, and labor organizations representing those employees.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq.

List of Subjects in 5 CFR Parts 2422, 2423, and 2429

Administrative practice and procedure, Government employees, Labor management relations.

For the reasons stated in the preamble, the FLRA amends 5 CFR Parts 2422, 2423, and 2429, as follows:

PART 2422—REPRESENTATION PROCEEDINGS

■ 1. Part 2422 is revised to read as follows:

Sec.

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2422.2 Who may file a petition?
2422.3 What information should you include in your petition?
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2422.33 Relief under part 2423 of this chapter.
2422.34 What are the parties' rights and obligations when a representation proceeding is pending?

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

§ 2422.1 What is your purpose for filing a petition?

You, the petitioner, may file a petition for the following purposes:

(a) *Elections or Eligibility for dues allotment.* To request:

(1)(i) An election to determine whether employees in an appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, and/or

(ii) A determination of eligibility for dues allotment in an appropriate unit without an exclusive representative; or

(2) An election to determine whether employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative.

(3) Petitions under this subsection must be accompanied by an appropriate showing of interest.

(b) *Clarification or Amendment.* To clarify, and/or amend:

(1) A recognition or certification then in effect; and/or

(2) Any other matter relating to representation.

(c) *Consolidation.* To consolidate two or more units, with or without an election, in an agency where a labor organization is the exclusive representative.

§ 2422.2 Who may file a petition?

An individual; a labor organization; two or more labor organizations acting as a joint-petitioner; an individual acting on behalf of any employee(s); an agency or activity; or a combination of the above may file a representation petition. But,

(a) Only a labor organization may file a petition under § 2422.1(a)(1);

(b) Only an individual may file a petition under § 2422.1(a)(2); and

(c) Only an agency or a labor organization may file a petition under § 2422.1(b) or (c).

§ 2422.3 What information should you include in your petition?

(a) You must file a petition either in writing with your signature or electronically using the eFiling system on the FLRA's Web site at *www.flra.gov*. Your petition must provide the following information on a form designated by the Authority, or on a substantially similar form, or electronically using the eFiling system on the FLRA's Web site at *www.flra.gov:*

(1) The name and mailing address for each agency or activity affected by issues raised in the petition, including street number, city, state and zip code.

(2) The name, mailing address and work telephone number, fax number and email address (if known) of the contact person for each agency or activity affected by issues raised in the petition.

(3) The name and mailing address for each labor organization affected by issues raised in the petition, including street number, city, state and zip code. If a labor organization is affiliated with a national organization, the local designation and the national affiliation should both be included. If a labor organization is an exclusive representative of any of the employees affected by issues raised in the petition, the date of the recognition or certification and the date any collective bargaining agreement covering the unit will expire or when the most recent agreement did expire should be included, if known.

(4) The name, mailing address and work telephone number, fax number and email address (if known) of the contact person for each labor organization affected by issues raised in the petition.

(5) Your name and mailing address, including street number, city, state and zip code, and fax number and email address. If you are a labor organization affiliated with a national organization, the local designation and the national affiliation should both be included.

(6) A description of the unit(s) affected by issues raised in the petition. The description should generally indicate the geographic locations and the classifications of the employees included (or sought to be included) in, and excluded (or sought to be excluded) from, the unit.

(7) The approximate number of employees in the unit(s) affected by issues raised in the petition.

(8) A clear and concise statement of the issues raised by the petition and the results the petitioner seeks.

(9) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that the contents of the petition are true and correct to the best of the person's knowledge and belief.

(10) The title, mailing address and telephone number of the person filing the petition.

(b) *Certification of compliance with 5 U.S.C. 7111(e).* A labor organization/petitioner complies with 5 U.S.C. 7111(e) by submitting to the agency or activity and to the Department of Labor a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives. By signing the petition form, the labor organization/petitioner certifies that it has submitted these documents to the activity or agency and to the Department of Labor.

(c) *Showing of interest supporting a representation petition (defined at 5 U.S.C. 2421.16).* When filing a petition requiring a showing of interest, you must:

(1) So indicate on the petition form;

(2) Submit with the petition a showing of interest of not less than thirty percent (30%) of the employees in the unit involved in the petition; and

(3) Include an alphabetical list of the names constituting the showing of interest.

(d) *Petition seeking dues allotment.* When there is no exclusive representative, a petition seeking certification for dues allotment must be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit claimed to be appropriate. An alphabetical list of names constituting the showing of membership must be submitted.

§ 2422.4 What service requirements must you meet when filing a petition?

You must serve every petition, motion, brief, request, challenge, written objection, or application for review on all parties affected by issues raised in the filing. The service must include all supporting documentation, with the exceptions of a showing of interest, evidence supporting challenges to the validity of a showing of interest, and evidence supporting objections to an election. You must submit a statement of service to the Regional Director.

§ 2422.5 Where do you file petitions?

(a) *Where to file.* You must file a petition with the Regional Director for the region in which the unit or employee(s) affected by issues raised in the petition are located. If the unit(s) or employees are located in two or more regions of the Authority, you must file the petitions with the Regional Director for the region where the headquarters of the agency or activity is located.

(b) *Method of filing.* You may file a petition with the Regional Director in person or by commercial delivery, first class mail, facsimile, certified mail, or electronically through use of the eFiling system on the FLRA's Web site at *www.flra.gov.* If you file electronically or by facsimile transmission you are not required to file an original copy of the petition with the Region. You assume responsibility for the Regional Director's receipt of a petition.

(c) *Date of filing.* When a Regional Director receives a petition, it is deemed filed. A petition filed during business hours by facsimile or electronic means

is deemed received on the business day on which it is received (either by the Regional Office fax machine or by the eFiling system), until midnight local time in the Region where it is filed. But when a Region receives a petition by any other method after the close of business day, it will be deemed received and docketed on the next business day. The business hours for each of the Regional Offices are set forth at *http://www.flra.gov.*

§ 2422.6 How are parties notified of the filing of a petition?

(a) *Notification to parties.* After you file a petition the Regional Director will notify any labor organization, agency, or activity identified as being affected by issues raised by the petition, that a petition has been filed. The Regional Director will also make reasonable efforts to identify and notify any other party affected by the issues raised by the petition.

(b) *Contents of the notification.* The notification will inform the labor organization, agency, or activity of:

(1) Your name (the petitioner);

(2) The description of the unit(s) or employees affected by issues raised in the petition; and,

(3) A statement that all affected parties should advise the Regional Director in writing of their interest in the issues raised in the petition.

§ 2422.7 Will an activity or agency post a notice of filing of a petition?

(a) *Posting notice of petition.* After you file a petition, when appropriate, the Regional Director will direct the agency or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of a notice in a manner by which notices are normally distributed.

(b) *Contents of notice.* The notice must advise affected employees about the petition.

(c) *Duration of notice.* The notice must be conspicuously posted for a period of ten (10) days and must not be altered, defaced, or covered by other material.

§ 2422.8 What is required to file an Intervention or Cross-petition?

(a) *Cross-petitions.* A cross-petition is a petition that involves any employees in a unit covered by a pending representation petition. If you file a cross-petition, it must be filed under the requirements of this subpart.

(b) *Intervention requests and cross-petitions.*

(1) You may file a request to intervene, along with any necessary showing of interest, with either the Regional Director or the Hearing Officer. This must be filed either in person, or by commercial delivery, first-class mail, certified mail or facsimile. You must file a request to intervene before the hearing opens, unless you show good cause for granting an extension. If no hearing is held, you must file a request to intervene before action is taken under § 2422.30.

(2) You may file a cross-petition, along with any necessary showing of interest, with either the Regional Director or the Hearing Officer. This must be filed electronically through the use of the eFiling system on the FLRA's Web site at *www.flra.gov* or, in person, by commercial delivery, first-class mail, certified mail or facsimile. Any cross-petition must be filed before the hearing opens, unless you show good cause for granting an extension. If no hearing is held, you must file a cross-petition before action is taken under § 2422.30.

(c) *Labor organization intervention requests.* Except for incumbent intervenors, a labor organization seeking to intervene must submit a statement that it has complied with 5 U.S.C. 7111(e) and one of the following:

(1) A showing of interest of ten percent (10%) or more of the employees in the unit covered by a petition seeking an election, with an alphabetical list of the names of the employees establishing the showing of interest; or

(2) A current or recently expired collective bargaining agreement covering any of the employees in the unit affected by issues raised in the petition; or

(3) Evidence that it is or was, before a reorganization, the recognized or certified exclusive representative of any of the employees affected by issues raised in the petition.

(d) *Incumbent.* An incumbent exclusive representative, without regard to the requirements of paragraph (c) of this section, will be considered a party in any representation proceeding raising issues that affect employees the incumbent represents, unless it serves the Regional Director with a written disclaimer of any representation interest in the claimed unit.

(e) *Employing agency.* An agency or activity will be considered a party if any of its employees are affected by issues raised in the petition.

(f) *Agency or activity intervention.* An agency or activity seeking to intervene in any representation proceeding must submit evidence that one or more employees of the agency or activity may be affected by issues raised in the petition.

§ 2422.9 How is the adequacy of a showing of interest determined?

(a) *Adequacy.* Adequacy of a showing of interest refers to the percentage of employees in the unit involved as required by §§ 2422.3(c) and (d) and 2422.8(c)(1).

(b) *Regional Director investigation of showing of interest and Decision and Order.* The Regional Director will conduct an investigation if deemed appropriate. A Regional Director's determination that the showing of interest is adequate is final and binding and not subject to collateral attack at a representation hearing or on appeal to the Authority. If the Regional Director determines that a showing of interest is inadequate, the Regional Director will issue a Decision and Order dismissing the petition, or denying a request for intervention.

§ 2422.10 How do you challenge the validity of a showing of interest?

(a) *Validity.* Validity questions are raised by challenges to a showing of interest on grounds other than adequacy.

(b) *Validity challenge.* The Regional Director or any party may challenge the validity of a showing of interest.

(c) *When and where validity challenges may be filed.* Your challenges to the validity of a showing of interest must be in writing and filed with the Regional Director or the Hearing Officer before the hearing opens, unless you show good cause for granting an extension. If no hearing is held, you must file challenges to the validity of a showing of interest before action is taken under § 2422.30.

(d) *Contents of validity challenges.* Your challenges to the validity of a showing of interest must be supported with evidence.

(e) *Regional Director investigation and Decision and Order.* The Regional Director will conduct an investigation if deemed appropriate. The Regional Director's determination that a showing of interest is valid is final and binding and is not subject to collateral attack or appeal to the Authority. If the Regional Director finds that the showing of interest is not valid, the Regional Director will issue a Decision and Order dismissing the petition or denying the request to intervene.

§ 2422.11 How do you challenge the status of a labor organization?

(a) *Basis of challenge to labor organization status.* Non-compliance with 5 U.S.C. 7103(a)(4) is the only basis on which you may challenge the status of a labor organization.

(b) *Format and time for filing a challenge.* If you file a challenge to the

status of a labor organization involved in the processing of a petition you must do so in writing to the Regional Director or the Hearing Officer before the hearing opens, unless you show good cause for granting an extension. If no hearing is held, you must file challenges before action is taken under § 2422.30.

§ 2422.12 What circumstances does the Region consider to determine whether your petition is timely filed?

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking an election will not be considered timely if filed within twelve (12) months of a valid election involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election will not be considered timely if filed within twelve (12) months after the certification of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement covering the claimed unit is pending agency head review under 5 U.S.C. 7114(c) or is in effect, paragraphs (c), (d), or (e) of this section apply.

(c) *Bar during 5 U.S.C. 7114(c) agency head review.* A petition seeking an election will not be considered timely if filed during the period of agency head review under 5 U.S.C. 7114(c). This bar expires upon either the passage of thirty (30) days absent agency head action, or upon the date of any timely agency head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the agreement.

(e) *Contract bar where the contract is for more than three (3) years.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of more than three (3) years from the date on which it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

(f) *Unusual circumstances.* A petition seeking an election or a determination relating to representation matters may be filed at any time when unusual circumstances exist that substantially affect the unit or majority representation.

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended before sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c) and those that automatically renew without further action by the parties, are not a bar to a petition seeking an election under this section unless a clear effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

§ 2422.13 How are issues raised by your petition resolved?

(a) *Meetings before filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet before the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties, a representative of the appropriate Regional Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* The Regional Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

§ 2422.14 What is the effect of your withdrawal or the Regional Director's dismissal of a petition?

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* (1) If you withdraw a timely filed petition seeking an election, or the Regional Director dismisses the petition less than sixty (60) days before the existing agreement between the incumbent exclusive representative and the agency or activity expires, or any time after the agreement expires, another petition that seeks an election will not be considered timely if filed within a ninety (90) day period beginning with either:

(i) The date on which the Regional Director approves the withdrawal; or

(ii) The date on which the Regional Director dismisses the petition when the Authority does not receive an application for review; or

(iii) The date on which the Authority rules on an application for review.

(2) Other pending petitions that have been timely filed under this part will continue to be processed.

(b) *Withdrawal by petitioner.* If you submit a withdrawal request for a petition seeking an election that the Regional Director receives after the notice of hearing issues or after approval of an election agreement, whichever occurs first, you will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date on which the Regional Director approves the withdrawal.

(c) *Withdrawal by incumbent.* When an election is not held because the incumbent disclaims any representation interest in a unit, an incumbent's petition seeking an election involving the same unit or a subdivision of the same unit will be considered untimely if filed within six (6) months of cancellation of the election.

§ 2422.15 Do parties have a duty to provide information and cooperate after a petition is filed?

(a) *Relevant information.* After you file a petition, all parties must, upon request of the Regional Director, provide the Regional Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After you file a petition seeking an election, the Regional Director may direct the agency or activity to provide the Regional Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of the representation process. This obligation includes cooperating fully with the Regional Director, submitting all required and requested information, and participating in prehearing conferences and hearings. The Regional Director may take appropriate action, including dismissal of the petition or denial of intervention, if parties fail to cooperate in the representation process.

§ 2422.16 May parties enter into election agreements, and if they do not will the Regional Director direct an election?

(a) *Election agreements.* Parties are encouraged to enter into election agreements.

(b) *Regional Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or

locations of the election, the Regional Director will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for a hearing.* Before directing an election, the Regional Director must provide affected parties an opportunity for a hearing on non-procedural matters, and then may:

(1) Issue a Decision and Order; or

(2) If there are no questions regarding unit appropriateness, issue a Direction of Election without a Decision and Order.

(d) *Challenges or objections to a directed election.* A Direction of Election issued under this section will be issued without prejudice to the right of a party to file a challenge to the eligibility of any person participating in the election and/or objections to the election.

§ 2422.17 What are a notice of hearing and prehearing conference?

(a) *Purpose of notice of a hearing.* The Regional Director may issue a notice of hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will advise affected parties about the hearing. The Regional Director will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

(c) *Prehearing conference.* A prehearing conference will be conducted by the Hearing Officer, either by meeting or teleconference. All parties must participate in a prehearing conference and be prepared to fully discuss, narrow, and resolve the issues set forth in the notification of the prehearing conference.

(d) *No interlocutory appeal of hearing determination.* A party may not appeal to the Authority a Regional Director's determination of whether to issue a notice of hearing.

§ 2422.18 What is the purpose of a representation hearing and what procedures are followed?

(a) *Purpose of a hearing.* Representation hearings are considered investigatory and not adversarial. The purpose of the hearing is to develop a full and complete record of relevant and material facts.

(b) *Conduct of hearing.* Hearings will be open to the public unless otherwise ordered by the Hearing Officer. There is no burden of proof, with the exception of proceedings on objections to elections under § 2422.27(b). Formal rules of evidence do not apply.

(c) *Hearing officer.* The Regional Director appoints a hearing officer to conduct a hearing. Another hearing officer may be substituted for the presiding Hearing Officer at any time.

(d) *Transcript.* An official reporter will make the official transcript of the hearing. Copies of the official transcript may be examined in the appropriate Regional Office during normal working hours. Parties should contact the official hearing reporter to purchase copies of the official transcript.

§ 2422.19 When is it appropriate for a party to file a motion at a representation hearing?

(a) *Purpose of a motion.* After the Regional Director issues a Notice of Hearing in a representation proceeding, a party who seeks a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds in support. The Regional Director or Hearing Officer may treat challenges and other filings referenced in other sections of this subpart as a motion.

(b) *Prehearing motions.* Parties must file prehearing motions in writing with the Regional Director. Any response must be filed with the Regional Director within five (5) days after service of the motion. The Regional Director may rule on the motion or refer the motion to the Hearing Officer.

(c) *Motions made at the hearing.* During the hearing, parties may make oral motions on the record to the Hearing Officer unless required to be in writing. Responses may be oral on the record or in writing, but must be provided before the hearing closes, absent permission of the Hearing Officer. When appropriate, the Hearing Officer will rule on motions made at the hearing or referred to the Hearing Officer by the Regional Director.

(d) *Posthearing motions.* Parties must file motions made after the hearing closes in writing with the Regional Director. Any response to a posthearing motion must be filed with the Regional Director within five (5) days after service of the motion.

§ 2422.20 What rights do parties have at a hearing?

(a) *Rights.* A party at a hearing will have the right:

(1) To appear in person or by a representative;

(2) To examine and cross-examine witnesses; and

(3) To introduce into the record relevant evidence.

(b) *Documentary evidence and stipulations.* Parties must submit two (2) copies of documentary evidence to the Hearing Officer and copies to all other parties. Stipulations of fact between the parties may be introduced into evidence.

(c) *Oral argument.* Parties will have a reasonable period before the close of the hearing for oral argument. Presentation of a closing oral argument does not preclude a party from filing a brief under paragraph (d) of this section.

(d) *Briefs.* A party will be given an opportunity to file a brief with the Regional Director.

(1) A party must file an original and two (2) copies of a brief with the Regional Director within thirty (30) days from the close of the hearing.

(2) No later than five (5) days before the date the brief is due a party must file and the Regional Director must receive a written request for an extension of time to file a brief.

(3) Absent the Regional Director's permission, parties may not file a reply brief.

§ 2422.21 What are the duties and powers of the Hearing Officer?

(a) *Duties of the Hearing Officer.* The Hearing Officer receives evidence and inquires fully into the relevant and material facts concerning the matters that are the subject of the hearing. The Hearing Officer may make recommendations on the record to the Regional Director.

(b) *Powers of the Hearing Officer.* After the Regional Director assigns a case to a Hearing Officer and before the close of the hearing, the Hearing Officer may take any action necessary to schedule, conduct, continue, control, and regulate the hearing, including ruling on motions when appropriate.

§ 2422.22 What are objections and exceptions concerning the conduct of the hearing?

(a) *Objections.* Objections are oral or written complaints concerning the conduct of a hearing.

(b) *Exceptions to rulings.* There are automatic exceptions to all adverse rulings.

§ 2422.23 What election procedures are followed?

(a) *Regional Director conducts or supervises election.* The Regional Director will decide to either conduct or supervise the election. In supervised elections, agencies will perform all acts as specified in the Election Agreement or Direction of Election.

(b) *Notice of election.* Before the election the activity posts a notice of election, prepared by the Regional Director. The notice is posted in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed. The notice of election contains the details and procedures of the election, including the appropriate

unit, the eligibility period, the date(s), hour(s) and location(s) of the election, a sample ballot, and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document that claims to be a copy of the official ballot and that suggests either directly or indirectly to employees that the Authority endorses a particular choice in the election may constitute grounds for setting aside an election if objections are filed under § 2422.26.

(d) *Secret ballot.* All elections are by secret ballot.

(e) *Intervenor withdraws from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, before the approval of an election agreement or before the direction of an election, file a written request with the Regional Director to remove its name from the ballot. If the Regional Director does not receive the request before the approval of an election agreement or before the direction of an election, the intervening labor organization will remain on the ballot, unless the parties and the Regional Director agree otherwise. The Regional Director's decision on the request is final, and no party may file an application for review with the Authority.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative is not held if the incumbent provides the Regional Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election is held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Regional Director.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election is not held if the petitioner provides the Regional Director with a written request to withdraw the petition. When there is an intervenor, an election is held if the intervening labor organization presents a thirty percent (30%) showing of interest within the time period established by the Regional Director.

(h) *Observers.* Subject to the Regional Director's approval, all parties may select representatives to observe at the polling location(s).

(1) A party who wants to name observers must file a written request with specific names with the Regional Director. This must be filed at least fifteen (15) days before an election. The Regional Director may grant an extension of time to file a request for named observers for good cause where a party requests an extension or on the Regional Director's own motion. The request must name and identify the observers requested.

(2) An agency or activity may use as its observers any employees who are not eligible to vote in the election, except:

(i) Supervisors or management officials;

(ii) Employees who have any official connection with any of the labor organizations involved; or

(iii) Non-employees of the Federal government.

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the union.

(4) Within five (5) days after service of the request for observers, any party that objects must file an objection with the Regional Director that states the reasons.

(5) The Regional Director's ruling on requests for and objections to observers is final and binding, and parties may not file an application for review with the Authority.

§ 2422.24 What are challenged ballots?

(a) *Filing challenges.* A party or the Regional Director may, for good cause, challenge the eligibility of any person to participate in the election.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) before the tally of ballots, the Region will impound and preserve the unresolved challenged ballot(s) until the Regional Director makes a determination, if necessary.

§ 2422.25 When does the Region tally the ballots?

(a) *Tallying the ballots.* When the election is concluded, the Regional Director will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Regional Director will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

(c) *Valid ballots cast.* Representation will be determined by the majority of the valid ballots cast.

§ 2422.26 How are objections to the election processed?

(a) *Filing objections to the election.* Any party may file objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election. A party must file an objection and the Regional Director must receive it within five (5) days after the tally of ballots has been served. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. A party must file an original and two (2) copies of the objections.

(b) *Supporting evidence.* The objecting party must file evidence, including signed statements, documents, and other materials supporting the objections, with the Regional Director within ten (10) days after the party files the objections.

§ 2422.27 How does the Region address determinative challenged ballots and objections?

(a) *Investigation.* The Regional Director investigates objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

(b) *Burden of proof.* An objecting party bears the burden of proof on objections by a preponderance of the evidence. However, no party bears the burden of proof on challenged ballots.

(c) *Regional Director action.* After investigation, the Regional Director takes appropriate action consistent with § 2422.30.

(d) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and under § 2422.33, a Regional Director may consolidate objections and/or determinative challenged ballots with an unfair labor practice hearing. An Administrative Law Judge conducts these consolidated hearings, except the following provisions do not apply:

(1) Sections 2423.18 and 2423.19(j) of this subchapter concerning the burden of proof and settlement conferences are not applicable;

(2) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted as provided by § 2423.26(a) of this subchapter.

(e) *Party exceptions filed with the Authority.* A party may file exceptions and related submissions with the Authority, and the Authority then issues a decision under part 2423 of this chapter.

§ 2422.28 When is a runoff election required?

(a) *When a runoff may be held.* A runoff election is required in an election

involving at least three (3) choices, one of which is ''no union'' or ''neither,'' when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the Regional Director has ruled on objections to the election and determinative challenged ballots.

(b) *Eligibility.* Employees who were eligible to vote in the original election and who are also eligible on the date of the runoff election may vote in the runoff election.

(c) *Ballot.* The ballot in the runoff election will provide for a selection between the two choices receiving the highest and second highest number of votes in the election.

§ 2422.29 How does the Region address an inconclusive election?

(a) *Inconclusive elections.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is ''no union'' or ''neither,'' and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Regional Director determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* The Region uses the latest payroll period to determine eligibility to vote in a rerun election.

(c) *Ballot.* If the Regional Director determines that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will show a majority of valid ballots has not been cast for any choice, and the Regional Director will issue a certification of results. If necessary, a runoff may be held when an original election is rerun.

§ 2422.30 When does a Regional Director investigate a petition, issue notices of hearings, take actions, and issue Decisions and Orders?

(a) *Regional Director investigation.* The Regional Director will investigate the petition and any other matter as the Regional Director deems necessary.

(b) *Regional Director notice of hearing.* The Regional Director will issue a notice of hearing to inquire into any matter about which a material issue of fact exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) *Regional Director action.* After investigation or hearing, the Regional Director can direct an election, or approve an election agreement, or issue a Decision and Order.

(d) *Appeal of Regional Director Decision and Order.* A party may file with the Authority an application for review of a Regional Director Decision and Order.

(e) *Contents of the Record.* When there has not been a hearing all material submitted to and considered by the Regional Director during the investigation becomes a part of the record. When a hearing has been held, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

§ 2422.31 When do you file an application for review of a Regional Director Decision and Order?

(a) *Filing an application for review.* A party must file an application for review with the Authority within sixty (60) days of the Regional Director's Decision and Order. The sixty (60) day time limit under 5 U.S.C. 7105(f) may not be extended or waived. The filing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(b) *Contents.* An application for review must be sufficient for the Authority to rule on the application without looking at the record. However, the Authority may, in its discretion, examine the record in evaluating the application. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific references to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director.

(c) *Review.* The Authority may grant an application for review only when the application demonstrates that review is warranted on one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent;

(2) Established law or policy warrants reconsideration; or,

(3) There is a genuine issue over whether the Regional Director has:

(i) Failed to apply established law;

(ii) Committed a prejudicial procedural error; or

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(d) *Opposition.* A party may file with the Authority an opposition to an application for review within ten (10) days after the party is served with the application. The opposing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(e) *Regional Director Decision and Order becomes the Authority's action.* A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No party files an application for review with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A party files a timely application for review with the Authority and the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days of the filing of the application; or

(3) The Authority denies an application for review of the Regional Director's Decision and Order.

(f) *Authority grant of review and stay.* The Authority may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review will stay any action ordered by the Regional Director unless specifically ordered by the Authority.

(g) *Briefs if review is granted.* If the Authority does not rule on the issue(s) in the application for review in its order granting review, the Authority may, in its discretion, give the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Authority's order granting review.

§ 2422.32 When does a Regional Director issue a certification or a revocation of certification?

(a) *Certifications.* The Regional Director issues an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No party files an objection or challenged ballots are not determinative, or

(ii) The Region decides and resolves objections and determinative challenged ballots; or

(2) The Regional Director issues a Decision and Order requiring a

certification and the Decision and Order becomes the action of the Authority under § 2422.31(e) or the Authority directs the issuance of a certification.

(b) *Revocations.* Without prejudice to any rights and obligations that may exist under the Statute, the Regional Director revokes a recognition or certification, as appropriate, and provides a written statement of reasons when:

(1) An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or

(2) Due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.

§ 2422.33 Relief under part 2423 of this chapter.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief under part 2423 of this chapter: But related matters may be consolidated for hearing as noted in § 2422.27(d) of this subpart.

§ 2422.34 What are the parties' rights and obligations when a representation proceeding is pending?

(a) *Existing recognitions, agreements, and obligations under the Statute.* When a representation proceeding is pending, parties must maintain existing recognitions, follow the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.

(b) *Unit status of individual employees.* A party may take action based on its position regarding the bargaining unit status of individual employees, under 3 U.S.C. 431(d)(2), 5 U.S.C. 7103(a)(2), and 7112(b) and (c). But its actions may be challenged, reviewed, and remedied where appropriate.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

■ 2. Section 2423.0 is revised to read as follows:

§ 2423.0 Applicability of this part.

This part applies to any unfair labor practice cases that are pending or filed with the FLRA on or after July 25, 2012.

■ 3. Subpart A is revised to read as follows:

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

Sec.

2423.1 Can a Regional Office help the parties resolve unfair labor practice disputes before a Regional Director decides whether to issue a complaint?
2423.2 What Alternative Dispute Resolution (ADR) services does the OGC provide?
2423.3 Who may file charges?
2423.4 What must you state in the charge and what supporting evidence and documents should you submit?
2423.5 [Reserved]
2423.6 What is the process for filing and serving copies of charges?
2423.7 [Reserved]
2423.8 How are charges investigated?
2423.9 How are charges amended?
2423.10 What actions may the Regional Director take with regard to your charge?
2423.11 What happens if a Regional Director decides not to issue a complaint?
2423.12 What types of settlements of unfair labor practice charges are possible after a Regional Director decides to issue a complaint but before issuance of a complaint?
2423.13–2423.19 [Reserved]

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

§ 2423.1 Can a Regional Office help the parties resolve unfair labor practice disputes before a Regional Director decides whether to issue a complaint?

(a) *Resolving unfair labor practice disputes before filing a charge.* The purposes and policies of the Federal Service Labor-Management Relations Statute (Statute) can best be achieved by the collaborative efforts of all persons covered by that law. The General Counsel encourages all persons to meet and, in good faith, attempt to resolve unfair labor practice disputes before filing unfair labor practice charges. If requested, and the parties agree, a representative of the Regional Office, in appropriate circumstances, may participate in these meetings to assist the parties to identify the issues and their interests and to resolve the dispute. Parties' attempts to resolve unfair labor practice disputes before filing an unfair labor practice charge do not toll the time limitations for filing a charge set forth at 5 U.S.C. 7118(a)(4).

(b) *Resolving unfair labor practice disputes after filing a charge.* The General Counsel encourages the informal resolution of unfair labor practice allegations after a charge is filed and before the Regional Director makes a merit determination. A representative of the appropriate Regional Office, as part of the investigation, may assist the parties in informally resolving their dispute.

§ 2423.2 What Alternative Dispute Resolution (ADR) services does the OGC provide?

(a) *Purpose of ADR services.* The Office of the General Counsel furthers its mission and implements the agency-wide Federal Labor Relations Authority Collaboration and Alternative Dispute Resolution Program by promoting stable and productive labor-management relationships governed by the Statute and by providing services that assist labor organizations and agencies, on a voluntary basis, to:

(1) Develop collaborative labor-management relationships;

(2) Avoid unfair labor practice disputes; and

(3) Informally resolve unfair labor practice disputes.

(b) *Types of ADR Services.* Agencies and labor organizations may jointly request, or agree to, the provision of the following services by the Office of the General Counsel:

(1) *Facilitation.* Assisting the parties in improving their labor-management relationship as governed by the Statute;

(2) *Intervention.* Intervening when parties are experiencing or expect significant unfair labor practice disputes;

(3) *Training.* Training labor organization officials and agency representatives on their rights and responsibilities under the Statute and how to avoid litigation over those rights and responsibilities, and on using problem-solving and ADR skills, techniques, and strategies to resolve informally unfair labor practice disputes; and

(4) *Education.* Working with the parties to recognize the benefits of, and establish processes for, avoiding unfair labor practice disputes, and resolving any unfair labor practice disputes that arise by consensual, rather than adversarial, methods.

(c) *ADR services after initiation of an investigation.* As part of processing an unfair labor practice charge, the Office of the General Counsel may suggest to the parties, as appropriate, that they may benefit from these ADR services.

§ 2423.3 Who may file charges?

(a) *Filing charges.* Any person may charge an activity, agency, or labor organization with having engaged in, or engaging in, any unfair labor practice prohibited under 5 U.S.C. 7116.

(b) *Charging Party.* Charging Party means the individual, labor organization, activity, or agency filing an unfair labor practice charge with a Regional Director.

(c) *Charged Party.* Charged Party means the activity, agency, or labor organization charged with allegedly having engaged in, or engaging in, an unfair labor practice.

§ 2423.4 What must you state in the charge and what supporting evidence and documents should you submit?

(a) *What to file.* You, the Charging Party, may file a charge alleging a violation of 5 U.S.C. 7116 by providing the following information on a form designated by the General Counsel, or on a substantially similar form, or electronically through the use of the eFiling system on the FLRA's Web site at *www.flra.gov,* or by facsimile transmission:

(1) The Charging Party's name and mailing address, including street number, city, state, and zip code;

(2) The Charged Party's name and mailing address, including street number, city, state, and zip code;

(3) The Charging Party's point of contact's name, address, telephone number, facsimile number, if known, and email address, if known;

(4) The Charged Party's point of contact's name, address, telephone number, facsimile number, if known, and email address, if known;

(5) A clear and concise statement of the facts alleged to constitute an unfair labor practice, a statement of how those facts allegedly violate specific section(s) and paragraph(s) of the Statute, and the date and place of occurrence of the particular acts; and

(6) A statement whether the subject matter raised in the charge:

(i) Has been raised previously in a grievance procedure;

(ii) Has been referred to the Federal Service Impasses Panel, the Federal Mediation and Conciliation Service, the Equal Employment Opportunity Commission, the Merit Systems Protection Board, or the Office of Special Counsel for consideration or action;

(iii) Involves a negotiability issue that you raised in a petition pending before the Authority under part 2424 of this subchapter; or

(iv) Has been the subject of any other administrative or judicial proceeding.

(7) A statement describing the result or status of any proceeding identified in paragraph (a)(6) of this section.

(b) *When and how to file.* Under 5 U.S.C. 7118(a)(4), a charge alleging an unfair labor practice must be in writing and signed or filed electronically using the eFiling system on the FLRA's Web site at *www.flra.gov.* It is normally filed within six (6) months of its occurrence unless one of the two (2) circumstances described under paragraph (B) of 5 U.S.C. 7118(a)(4) applies.

(c) *Declarations of truth and statement of service.* A charge must also contain a declaration by the individual signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that individual's knowledge and belief.

(d) *Statement of service.* You must also state that you served the charge on the Charged Party, and you must list the name, title and location of the individual served, and the method of service.

(e) *Self-contained document.* A charge must be a self-contained document describing the alleged unfair labor practice without a need to refer to supporting evidence and documents submitted under paragraph (f) of this section.

(f) *Submitting supporting evidence and documents and identifying potential witnesses.* When filing a charge, you must submit to the Regional Director any supporting evidence and documents, including, but not limited to, correspondence and memoranda, records, reports, applicable collective bargaining agreement clauses, memoranda of understanding, minutes of meetings, applicable regulations, statements of position, and other documentary evidence. You also must identify potential witnesses with contact information (telephone number, email address, and facsimile number) and provide a brief synopsis of their expected testimony.

§ 2423.5 [Reserved]

§ 2423.6 What is the process for filing and serving copies of charges?

(a) *Where to file.* You must file the charge with the Regional Director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director in any of those regions.

(b) *Date of filing.* When a Regional Director receives a charge, it is deemed filed. A charge filed during business hours by facsimile or electronic means is deemed received on the business day on which it is received (either by the Regional Office fax machine or by the eFiling system), until midnight local time in the Region where it is filed. But when a Region receives a charge after the close of the business day by any other method, it will be deemed received and docketed on the next business day. The business hours for each of the Regional Offices are set forth at *http://www.FLRA.gov.*

(c) *Method of filing.* You may file a charge with the Regional Director in person or by commercial delivery, first class mail, certified mail, facsimile, or electronically through use of the eFiling system on the FLRA's Web site at *www.flra.gov.* If filing by facsimile transmission or by electronic means, you are not required to file an original copy of the charge with the Region. You assume responsibility for the Regional Director's receipt of a charge. Supporting evidence and documents must be submitted to the Regional Director in person, by commercial delivery, first class mail, certified mail, facsimile transmission, or through the FLRA's eFiling system.

(d) *Service of the charge.* You must serve a copy of the charge (without supporting evidence and documents) on the Charged Party. Where facsimile equipment is available, you may serve the charge by facsimile transmission, as paragraph (c) of this section discusses. Alternatively, you may serve the charge by electronic mail (''email''), but only if the Charged Party has agreed to be served by email. The Region routinely serves a copy of the charge on the Charged Party, but you remain responsible for serving the charge, consistent with the requirements in this paragraph.

§ 2423.7 [Reserved]

§ 2423.8 How are charges investigated?

(a) *Investigation.* The Regional Director, on behalf of the General Counsel, conducts an investigation of the charge as deemed necessary. During the course of the investigation, all parties involved are given an opportunity to present their evidence and views to the Regional Director.

(b) *Cooperation.* The purposes and policies of the Statute can best be achieved by the parties' full cooperation and their timely submission of all relevant information from all potential sources during the investigation. All persons must cooperate fully with the Regional Director in the investigation of charges. A failure to cooperate during the investigation of a charge may provide grounds to dismiss a charge for failure to produce evidence supporting the charge. Cooperation includes any of the following actions, when deemed appropriate by the Regional Director:

(1) Making union officials, employees, and agency supervisors and managers available to give sworn/affirmed testimony regarding matters under investigation;

(2) Producing documentary evidence pertinent to the matters under investigation;

(3) Providing statements of position on the matters under investigation; and

(4) Responding to an agent's communications during an investigation in a timely manner.

(c) *Investigatory subpoenas.* If a person fails to cooperate with the Regional Director in the investigation of a charge, the General Counsel, upon recommendation of a Regional Director, may decide in appropriate circumstances to issue a subpoena under 5 U.S.C. 7132 for the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena, which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management, will issue under this section.

(1) A subpoena can only be served by any individual who is at least 18 years old and who is not a party to the proceeding. The individual who served the subpoena must certify that he or she did so:

(i) By delivering it to the witness in person;

(ii) By registered or certified mail; or

(iii) By delivering the subpoena to a responsible individual (named in the document certifying the delivery) at the residence or place of business (as appropriate) of the person for whom the subpoena was intended. The subpoena must show on its face the name and address of the Regional Director and the General Counsel.

(2) Any person served with a subpoena who does not intend to comply must, within 5 days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke must be served on the General Counsel.

(3) The General Counsel must revoke the subpoena if the witness or evidence, the production of which is required, is not material and relevant to the matters under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The General Counsel must state the procedural or other grounds for the ruling on the petition to revoke. The petition to revoke becomes part of the official record if there is a hearing under subpart C of this part.

(4) Upon the failure of any person to comply with a subpoena issued by the General Counsel, the General Counsel must determine whether to institute proceedings in the appropriate district court for the enforcement of the subpoena. Enforcement must not be sought if to do so would be inconsistent with law, including the Statute.

(d) *Confidentiality.* It is the General Counsel's policy to protect the identity of individuals who submit statements and information during the investigation, and to protect against the disclosure of documents obtained during the investigation, to ensure the General Counsel's ability to obtain all relevant information. However, after a Regional Director issues a complaint and when necessary to prepare for a hearing, the Region may disclose the identification of witnesses, a synopsis of their expected testimony, and documents proposed to be offered into evidence at the hearing, as required by the prehearing disclosure requirements in § 2423.23.

§ 2423.9 How are charges amended?

Before the issuance of a complaint, the Charging Party may amend the charge under the requirements set forth in § 2423.6.

§ 2423.10 What actions may the Regional Director take with regard to your charge?

(a) *Regional Director action.* The Regional Director, on behalf of the General Counsel, may take any of the following actions, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Dismiss a charge;

(3) Approve a written settlement agreement under § 2423.12;

(4) Issue a complaint; or

(5) Withdraw a complaint.

(b) *Request for appropriate temporary relief.* Parties may request the General Counsel to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d). The General Counsel may initiate and prosecute injunctive proceedings under 5 U.S.C. 7123(d) only upon approval of the Authority. A determination by the General Counsel not to seek approval of the Authority to seek temporary relief is final and cannot be appealed to the Authority.

(c) *General Counsel requests to the Authority.* When a complaint issues and the Authority approves the General Counsel's request to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d), the General Counsel may make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. The General Counsel may seek temporary relief if it is just and proper and the record establishes probable cause that an unfair labor practice is being committed. Temporary relief will not be sought if it would interfere with the ability of the agency to carry out its essential functions.

(d) *Actions subsequent to obtaining appropriate temporary relief.* The General Counsel must inform the district court that granted temporary relief under 5 U.S.C. 7123(d) whenever an Administrative Law Judge recommends dismissal of the complaint, in whole or in part.

§ 2423.11 What happens if a Regional Director decides not to issue complaint?

(a) *Opportunity to withdraw a charge.* If the Regional Director determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the Charging Party to withdraw the charge.

(b) *Dismissal letter.* If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director will dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) *Appeal of a dismissal letter.* The Charging Party may obtain review of the Regional Director's decision to dismiss a charge by filing an appeal with the General Counsel, either in writing or by email to *ogc.appeals@flra.gov,* within 25 days after the Regional Director served the decision. A Charging Party must serve a copy of the appeal on the Regional Director. The General Counsel must serve notice on the Charged Party that the Charging Party has filed an appeal.

(d) *Extension of time.* The Charging Party may file a request, either in writing or by email to *ogc.appeals@flra.gov,* for an extension of time to file an appeal, which must be received by the General Counsel not later than five (5) days before the date the appeal is due. A Charging Party must serve a copy of the request for an extension of time on the Regional Director.

(e) *Grounds for granting an appeal.* The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

(1) The Regional Director's decision did not consider material facts that would have resulted in issuance of a complaint;

(2) The Regional Director's decision is based on a finding of a material fact that is clearly erroneous;

(3) The Regional Director's decision is based on an incorrect statement or application of the applicable rule of law;

(4) There is no Authority precedent on the legal issue in the case; or

(5) The manner in which the Region conducted the investigation has resulted in prejudicial error.

(f) *General Counsel action.* The General Counsel may deny the appeal of the Regional Director's dismissal of the charge, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel's decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the General Counsel's decision is final.

(g) *Reconsideration.* After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion must be filed within 10 days after the date on which the General Counsel's final decision is postmarked. A motion for reconsideration must state with particularity the extraordinary circumstances claimed and must be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

§ 2423.12 What types of settlements of unfair labor practice charges are possible after a Regional Director decides to issue a complaint but before issuance of a complaint?

(a) *Bilateral informal settlement agreement.* Before issuing a complaint, the Regional Director may give the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(b) *Unilateral informal settlement agreement.* If the Charging Party elects not to become a party to a bilateral settlement agreement, which the Regional Director concludes fulfills the policies of the Statute, the Regional Director may choose to approve a unilateral settlement between the Regional Director and the Charged Party. The Regional Director, on behalf of the General Counsel, must issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director's action by filing an appeal with the General Counsel under § 2423.11(c) and (d). The General Counsel may grant an appeal when the Charging Party has shown that the Regional Director's approval of a unilateral settlement agreement does not fulfill the purposes and policies of the Statute. The General Counsel must take action on the appeal as set forth in § 2423.11(b) through (g).

§§ 2423.13–2423.19 [Reserved]

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

■ 4. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

■ 5. Section 2429.24 is amended by adding paragraphs (f)(12) through (f)(14) and revising paragraph (g) to read as follows:

§ 2429.24 Place and method of filing; acknowledgement.

* * * * *

(f) * * *

(12) Petitions under 5 CFR part 2422.

(13) Cross-petitions under 5 CFR part 2422.

(14) Charges under 5 CFR part 2423.

(g) As another alternative to the methods of filing described in paragraph (e) of this section, you may file the following documents by facsimile (''fax''), so long as fax equipment is available and your entire, individual filing does not exceed 10 pages in total length, with normal margins and font sizes. You may file only the following documents by fax under this paragraph (g):

(1) Motions;

(2) Information pertaining to prehearing disclosure, conferences, orders, or hearing dates, times, and locations;

(3) Information pertaining to subpoenas;

(4) Appeals of a dismissal of an unfair labor practice charge; and

(5) Other matters that are similar to those in paragraphs (g)(1) through (3) of this section.

Dated: June 20, 2012.

Julia Akins Clark,

General Counsel.

[FR Doc. 2012–15462 Filed 6–22–12; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Doc. No. AMS–FV–10–0025; FV10–987–1 FR]

Domestic Dates Produced or Packed in Riverside County, CA; Order Amending Marketing Order 987

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Marketing Agreement and Order No. 987 (order), which regulates the handling of domestic dates produced or packed in Riverside County, California. The amendments approved by producers in referendum were proposed by the California Date Administrative Committee (CDAC or committee), which is responsible for local administration of the order. The amendments are intended to improve administration of and compliance with the order and reflect current industry practices. Two amendments proposed by the Agricultural Marketing Service (AMS) were not approved in referendum.

DATES: This rule is effective July 25, 2012.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5110, Fax: (559) 487–5906, or Kathleen M. Finn, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Martin.Engeler@ams.usda.gov* or *Kathy.Finn@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Laurel.May@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as

amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorize amendment of the order through this informal rulemaking action.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) made changes to section 18c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend federal fruit, vegetable, and nut marketing agreements and orders if certain criteria are met.

AMS has considered the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and other relevant matters, and has determined that amending the order as proposed by the committee could appropriately be accomplished through informal rulemaking.

The committee's proposed amendments were recommended following deliberations at public meetings on October 30, 2008; October 29, 2009; and February 25, 2010. The proposed amendments were first submitted to AMS on May 29, 2009. After further discussions with AMS, the committee submitted revised proposals to AMS on March 2, 2010.

A proposed rule soliciting comments on the proposed amendments was issued on June 6, 2011, and published in the **Federal Register** on June 14, 2011 (76 FR 34618). No comments were received. A proposed rule and referendum order was issued on November 3, 2011, and published in the **Federal Register** on November 9, 2011 (76 FR 69678). This document directed that a referendum among date producers be conducted during the period January 16, 2012 through February 3, 2012, to determine whether they favor the proposed amendments to the order. To become effective, the amendments had to be approved by at least two-thirds of the producers voting, or two-thirds of the volume of dates represented by voters in the referendum. The amendments recommended by the committee were favored by more than 92 percent of those voting in the referendum and by more than 99 percent of the volume represented in the referendum.

The amendments included in this final rule will: (1) Authorize the committee to recommend regulatory exemptions for certain date varieties if market conditions warrant such exemption; (2) Increase the terms of office for committee members and alternates from two to three years; (3) Authorize the committee to conduct business by means of telephone or video conference technologies; (4) Authorize the committee to collect interest charges and late fees on delinquent assessment payments; and (5) Authorize the committee to build and maintain an operating monetary reserve not to exceed one year's average expenses.

An amended marketing agreement was subsequently provided to all date handlers in the production area for their approval. The marketing agreement was approved by handlers representing more than 50 percent of the volume of dates handled by all handlers covered under the order.

Two amendments concerning periodic continuance referenda and committee member term limits recommend by AMS were not approved by producers in referendum.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 79 producers of dates in the production area and 8 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $7,000,000.

According to the National Agricultural Statistics Service (NASS), the 2010 crop yield was approximately 7,080 pounds, or 3.54 tons, of dates per acre. NASS estimates that the 2010 grower price was approximately $0.585 per pound, or $1,170 per ton. Thus, the value of date production in 2010 averaged about $4,142 per acre (7,080 pounds per acre times $0.585 per pound). At that average price, a producer would have to farm over 181 acres to receive an annual income from dates of $750,000 ($750,000 divided by $4,142 per acre equals 181.1 acres). According to committee staff, the majority of California date producers farm fewer than 181 acres. Thus, it can be concluded that the majority of date producers could be considered small entities. According to data from the committee, the majority of handlers of California dates may also be considered small entities.

The amendments will authorize the committee to recommend regulatory exemptions for dates by variety, provide for three years terms of office for committee members, provide for committee meetings by telephone and other means of communication, authorize an operating monetary reserve not to exceed one year's average expenses, and authorize the collection of interest and late payment charges on delinquent assessment payments.

Conforming changes to the order's administrative rules and regulations will be made to facilitate implementation of the amendments approved by voters in the referendum. Specifically, the committee's nomination and polling procedures will be modified to require that balloting materials be provided to producers by June 15 of every third year.

The amendments were unanimously recommended at public meetings held

on October 30, 2008; October 29, 2009; and February 25, 2010. The committee believes that each of their amendments will benefit producers and handlers of all sizes.

The amendment granting authority to temporarily exempt certain date varieties from regulation will allow the committee to determine whether the costs of collecting assessments and reports on individual varieties are warranted. Handler burden related to those functions will be reduced for exempted varieties. Decreases in handler assessment obligation and reporting costs could be passed on to producers. Administrative costs related to enforcing regulatory compliance for those varieties will also be reduced.

Producer and handler participation in committee nominations is expected to improve when member terms of office are extended from two to three years. Extending the terms of office will afford the committee more time to identify and develop potential new members between committee selections. Coordinating committee nomination periods with those of other industry programs is expected to reduce voter confusion and increase the number of ballots returned, thus improving producer and handler representation on the committee.

Adding authority for alternative meeting formats is expected to improve participation in committee deliberations by industry members of all sizes. Using alternative meeting formats will minimize the time that committee members are required to be away from their individual businesses. Authorizing the chairperson to determine the format for each meeting will ensure that critical committee business is addressed appropriately. By providing greater flexibility for meeting attendance and participation, the committee hopes to benefit from the input of a greater number of interested persons whose perspectives and ideas could improve the marketing of California dates, which would in turn benefit both producers and handlers.

Authorizing the committee to impose interest and late payment charges on delinquent assessments is intended to encourage handlers to make payments on a timely basis. There will be no additional cost to handlers who comply with the order's assessment requirements. Timely assessment payments allow the committee to make and keep financial obligations with regard to operation of its programs, including marketing and promotion, which are intended to benefit all producers and handlers.

Adding authority to build and maintain an operating reserve equal to one year's average expenses is intended to allow the committee to recommend increases to their assessment rate in order to gradually build the reserve. During high production years, excess assessments could be added to the reserve until the fund's limit is reached. The larger operating reserve will help ensure that the committee has sufficient funds to meet its financial obligations and maintain critical marketing programs, even during short crop years. Such stability is expected to allow the committee to conduct programs that will benefit all entities, regardless of size.

The changes to the order's nomination and polling regulations are intended to facilitate implementation of the proposed amendments.

Where measurable, the costs outlined in this analysis are expected to be proportional to the size of business, so smaller businesses should not be unduly burdened. Benefits associated with improved efficiencies and greater representation on the committee should accrue to all entities, regardless of size.

Alternatives to these proposals included making no changes at this time. However, the changes are necessary to update administration of the order to reflect current industry practices, provide consistent funding that will enable the committee to maintain valuable marketing programs, and provide greater opportunity for committee participation.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this proceeding are anticipated. Should any changes become necessary, they would be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

The committee's meetings, at which these proposals were discussed, were widely publicized throughout the date industry. All interested persons were invited to attend the meetings and encouraged to participate in committee deliberations on all issues. Like all committee meetings, the meetings were public, and all entities, both large and small, were encouraged to express their views on these proposals.

A proposed rule concerning this action was published in the **Federal Register** on June 14, 2011 (76 FR 34618). Copies of the rule were mailed or sent via facsimile to all committee members and date handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending July 14, 2011, was provided to allow interested persons to respond to the proposal. No comments were received in response to the proposed order amendments. Further, no comments were received in response to the proposed conforming changes to the administrative regulations.

A proposed rule and referendum order was then issued on November 3, 2011, and published in the **Federal Register** on November 9, 2011 (76 FR 69678). This document directed that a referendum among date producers be conducted during the period January 16, 2012, through February 3, 2012, to determine whether they favor the proposed amendments to the order. To become effective, the amendments had to be approved by at least two-thirds of the producers voting, or two-thirds of the volume of dates represented by voters in the referendum. All of the proposed amendments were favored by more than 92 percent of those voting in the referendum and by more than 99 percent of the volume represented in the referendum.

An amended marketing agreement was subsequently provided to all date handlers in the production area for their approval. The marketing agreement was approved by handlers representing more than 50 percent of the volume of dates handled by all handlers covered under the order.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Order Amending the Order Regulating the Handling of Dates Produced or Packed in Riverside County, California

Findings and Determinations

(a) *Findings and Determinations Upon the Basis of the Rulemaking Record.*

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing agreement and order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The marketing agreement and order, as amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

2. The marketing agreement and order, as amended, regulate the handling of dates produced or packed in the production area (Riverside County, California) in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order;

3. The marketing agreement and order, as amended, are limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The marketing agreement and order, as amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of dates produced or packed in the production area; and

5. All handling of dates produced or packed in the production area as defined in the marketing agreement and order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

1. The ''Marketing Agreement Regulating the Handling of Dates Produced or Packed in Riverside County, California,'' has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping dates covered under the order) who during the period October 1, 2010, through September 30, 2011, handled not less than 50 percent of the volume of such dates covered under the order; and

2. The issuance of this amendatory order, amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of October 1, 2010, through September 30, 2011, have been engaged within the production area in the production of such dates, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of dates grown or packed in Riverside County, California, shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of Proposals Number 1 through 5 of the proposed marketing order amending the order contained in the proposed rule issued by the Administrator on November 5, 2011, and published in the **Federal Register** (76 FR 69678) on November 9, 2011, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 987.23 to read as follows:

§ 987.23 Term of office.

The term of office for members and alternate members shall be three years beginning August 1, except that such term may be shorter if the Committee composition is changed in the interim pursuant to § 987.21. *Provided,* That the terms of office of all members and alternates currently serving at the time of the amendment will end on July 31, 2014. Each member and alternate member shall, unless otherwise ordered by the Secretary, continue to serve until his or her successor has been selected and has qualified.

■ 3. Revise paragraph (a) of § 987.24 to read as follows:

§ 987.24 Nomination and selection.

(a) Nomination for members and alternate members of the Committee shall be made not later than June 15 of every third year.

* * * * *

■ 4. Amend § 987.31 by revising paragraphs (d) and (e) to read as follows:

§ 987.31 Procedure.

* * * * *

(d) At the discretion of the chairperson, Committee meetings may be assembled or conducted by means of teleconference, video conference, or other means of communication that may be developed. Assembled meetings may also allow for participation by means of teleconference or video conference or other communication methods, at the discretion of the chair. Members participating in meetings via any of these alternative means retain the same voting privileges that they would otherwise have.

(e) The Committee may vote upon any proposition by mail, or by telephone when confirmed in writing within two weeks, upon due notice and full and identical explanation to all members, including alternates acting as members, but any such action shall not be considered valid unless unanimously approved.

* * * * *

■ 5. Amend § 987.52 by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 987.52 Exemption.

* * * * *

(b) The Committee may, with the approval of the Secretary, recommend that the handling of any date variety be exempted from regulations established pursuant to §§ 987.39 through 987.51 and §§ 987.61 through 987.72.

■ 6. Amend § 987.72 by redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively; by adding a new paragraph (b); and by revising redesignated paragraph (d) to read as follows:

§ 987.72 Assessments.

* * * * *

(b) *Delinquent payments.* Any assessment not paid by a handler within a period of time prescribed by the Committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be as

recommended by the Committee and approved by the Secretary.

* * * * *

(d) *Operating reserve.* The Committee, with the approval of the Secretary, may establish and maintain during one or more crop years an operating monetary reserve in an amount not to exceed the average of one year's expenses incurred during the most recent five preceding crop years, except that an established reserve need not be reduced to conform to any recomputed average. Funds in reserve shall be available for use by the Committee for expenses authorized pursuant to § 987.71.

* * * * *

■ 7. Revise § 987.124(a) to read as follows:

§ 987.124 Nomination and polling.

(a) Date producers and producer-handlers shall be provided an opportunity to nominate and vote for individuals to serve on the Committee. For this purpose, the Committee shall, no later than June 15 of every third year, provide date producers and producer-handlers nomination and balloting material by mail or equivalent electronic means, upon which producers and producer-handlers may nominate candidates and cast their votes for members and alternate members of the Committee in accordance with the requirements in paragraphs (b)(1) and (b)(2) of this section, respectively. All ballots are subject to verification. Balloting material should be provided to voters at least two weeks before the due date and should contain, at least, the following information:

(1) The names of incumbents who are willing and eligible to continue to serve on the Committee;

(2) The names of other persons willing and eligible to serve;

(3) Instructions on how voters may add write-in candidates;

(4) The date on which the ballot is due to the Committee or its agent; and

(5) How and where to return ballots.

* * * * *

Dated: June 20, 2012.

Ruihong Guo,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–15428 Filed 6–22–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1089; Directorate Identifier 2011–NM–110–AD; Amendment 39–17097; AD 2012–12–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. This AD was prompted by reports of deformation found at the neck of the pressure regulator body on the oxygen cylinder and regulator assembly (CRA). This AD requires an inspection to determine if a certain oxygen CRA is installed and the replacement of affected oxygen CRAs. We are issuing this AD to prevent elongation of the pressure regulator neck, which could result in rupture of the oxygen cylinder, and, in the case of cabin depressurization, oxygen not being available when required.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2012.

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: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That SNPRM was published in the **Federal Register** on February 8, 2012 (77 FR 6525). The original NPRM (76 FR 64857, October 19, 2011) proposed to require an inspection to determine if a certain oxygen cylinder and regulator assembly (CRA) is installed and the replacement of affected oxygen CRAs. The SNPRM proposed to change the compliance time in paragraph (g) of the SNPRM.

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 SNPRM (77 FR 6525, February 8, 2012), or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 79 products of U.S. registry. We also estimate that it will take about 3 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 $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $29,145, or $255 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 SNPRM (77 FR 6525, February 8, 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 adding the following new AD:

2012–12–17 Bombardier, Inc.: Amendment 39–17097. Docket No. FAA–2011–1089; Directorate Identifier 2011–NM–110–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes, certificated in any category, serial numbers (S/N)s 20003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 35: Oxygen.

(e) Reason

This AD was prompted by reports of deformation found at the neck of the pressure regulator body on the oxygen cylinder and regulator assembly (CRA). We are issuing this AD to prevent elongation of the pressure regulator neck, which could result in rupture of the oxygen cylinder, and in the case of cabin depressurization, oxygen not being available when required.

(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) Actions

For airplanes having S/Ns 20003 through 20291 inclusive: Within 750 flight hours, or within 6 months after the effective date of this AD, whichever occurs first, inspect oxygen pressure regulators having part number (P/N) 806370–06 or 806370–14, to determine the serial number, in accordance with paragraph 2.B.(2) of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011.

(1) If the serial number of the oxygen pressure regulator is listed in table 2 of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011, replace the affected oxygen CRA, in accordance with paragraph 2.C. of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011.

(2) If the serial number of the oxygen pressure regulator is not listed in table 2 of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011, no further action is required by this paragraph.

(h) Parts Installation

For all airplanes: As of the effective date of this AD, no person may install an oxygen pressure regulator (P/N 806370–06 or 806370–14) having any serial number listed in table 2 of the Accomplishment Instructions of Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011, on any airplane, unless a suffix ''-A'' is beside the serial number.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (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 ACO, send it to Attn: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 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.

(j) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–09, dated May 13, 2011; and Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011; for related information.

(k) 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.

(i) Bombardier Service Bulletin 100–35–05, Revision 02, dated January 31, 2011.

(3) For service information identified in this AD, contact 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.*

(4) 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.

(5) 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 June 11, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14935 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0083; Directorate Identifier 2010–SW–022–AD; Amendment 39–17077; AD 2012–11–13]

RIN 2120–AA64

Airworthiness Directives; Aeronautical Accessories, Inc., High Landing Gear Aft Crosstube Assembly

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the Aeronautical Accessories, Inc. (AAI), High Landing Gear Aft Crosstube Assembly (aft crosstube) installed on certain Bell Helicopter Textron, Inc. (Bell) and Agusta S.p.A. (Agusta) model helicopters as an approved Bell part installed during production or based on a Supplemental Type Certificate (STC). This AD requires certain recurring visual, dimensional, and fluorescent penetrant inspections of each aft crosstube, and replacing any cracked crosstube. This AD also requires establishing a life limit and creating a component history card or equivalent record for one of the affected part-numbered aft crosstubes. This AD was prompted by three reports of failed crosstubes because of cracks. The actions are intended to prevent failure of a crosstube, collapse of the landing gear, and subsequent loss of control of the helicopter.

DATES: This AD is effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2012.

ADDRESSES: For service information identified in this AD, contact Aeronautical Accessories, Inc., P.O. Box 3689, Bristol, Tennessee 37625–3689, telephone (423) 538–5151 or 1–800–251–7094, fax (423) 538–8469 or at *http://www.aero-access.com.* You may also get service information from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files.* You may review a copy of 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: Martin R. Crane, Aviation Safety Engineer, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, email *martin.r.crane@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On Feb. 3, 2012, at 77 FR 5420, 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 aft crosstube part number (P/N) 412–321–104 and P/N 412–321–304, installed on Agusta Model AB412 and AB412EP and Bell Model 412, 412CF, and 412EP helicopters. The NPRM proposed to require certain recurring visual, dimensional, and fluorescent penetrant inspections of each aft crosstube. If there is a crack, the NPRM proposed to require, before further flight, replacing any cracked aft crosstube with an airworthy aft crosstube. The NPRM also proposed to require establishing a life limit for one of the affected part-numbered aft crosstubes (as the later part-numbered aft crosstube already has limits established) and creating a component history card or equivalent record for aft crosstube part number (P/N) 412–321–304. The proposed requirements were intended to prevent failure of a crosstube, collapse of the landing gear, and subsequent loss of control of the helicopter.

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

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of the same type design 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.

Related Service Information

We have reviewed AAI Alert Service Bulletin (ASB) No. AA–07109, dated April 3, 2008, which specifies recurring inspections and maintenance of each aft crosstube, P/N 412–321–104, installed as an approved part by Bell during production, and P/N 412–321–304, installed under STC SR01052AT, on Bell Model 412, 412EP, and 412CF and Agusta Model AB412 and AB412EP helicopters. This ASB specifies establishing a high aft crosstube, P/N 412–321–304, ''takeoff/landing'' life limit of 20,000. Also, this ASB specifies that operators should follow helicopter towing instructions to prevent crosstube damage or failure as a result of ground handling or towing.

We have also reviewed Bell ASB No. 412–08–129, dated May 12, 2008, for Bell Model 412 and 412EP helicopters, serial numbers 33001 through 33213, 36001 and subsequent, with an aft crosstube P/N 412–321–104 installed. Bell issued its ASB ''to achieve complete distribution of AA–07109 vendor bulletin to the current affected model distribution list.''

Costs of Compliance

We estimate that this AD will affect 115 helicopters of U.S. Registry.

We also estimate that the required actions will take about:

- 1 hour to create a component history card or equivalent record and determine and record the number of accumulated takeoffs and landings for each affected aft crosstube;
- 3 hours to prepare the area for a visual inspection;
- ½ hour to do the repetitive visual inspections, assuming 14 repetitive visual inspections per year;
- 1 hour to do a dimensional inspection of the skid gear, assuming 3 inspections per year;
- 24 hours to prepare and fluorescent penetrant inspect the aft crosstube, assuming 2 inspections per year; and
- 10 hours to replace an aft crosstube, if necessary, assuming 3 aft crosstubes are replaced.

The average labor rate is $85 per work hour. Required parts will cost about $9,315 per aft crosstube. Based on these figures, we estimate the total cost impact of this AD on U.S. operators to be $636,545.

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 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):

2012–11–13 Aeronautical Accessories, Inc.: Amendment 39–17077; Docket No. FAA–2012–0083; Directorate Identifier 2010–SW–022–AD.

(a) Applicability

This AD applies to High Landing Gear Aft Crosstube Assembly (aft crosstube) part number (P/N) 412–321–104 and P/N 412–321–304, installed on Agusta S.p.A. Model AB412 and AB412EP and Bell Helicopter Textron, Inc., Model 412, 412CF, and 412EP helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as cracked aft crosstube. This condition could result in collapse of the landing gear, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective July 30, 2012.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 50 hours time-in-service (TIS) establish a life limit of 20,000 takeoffs and landings for each aft crosstube P/N 412–321–304. For the purposes of this AD, a takeoff and landing is defined as the cycle from when the helicopter gets light on the skids (takeoff) unloading the aft crosstube and then settles on the skids again (landing) reloading the aft crosstubes. Either the number of landings or takeoffs may be counted.

(i) Create a component history card or equivalent record.

(ii) Determine and record on the history card or equivalent record the total number of takeoffs and landings for each aft crosstube. If the takeoff and landing information is unavailable, estimate the number by multiplying the airframe hours by 10.

(2) Within the next 450 takeoffs and landings, if an aft crosstube has reached 20,000 or more takeoffs and landings, replace it with an airworthy aft crosstube.

(3) Before reaching 2,500 takeoffs and landings or for an aft crosstube with 2,500 or more takeoffs and landings, within 50 hours TIS or within the next 250 takeoffs and landings, whichever occurs first, prepare the aft crosstube inspection areas as depicted in Figure 1 of Aeronautical Accessories, Inc. (AAI), Alert Service Bulletin No. AA–07109, dated April 3, 2008 (ASB), by following the Accomplishment Instructions, Part B, paragraphs 1 through 4, of the ASB. Using a 10X or higher magnifying glass, inspect the prepared areas of each aft crosstube for a crack. If there is a crack, before further flight, replace the cracked aft crosstube with an airworthy aft crosstube. If there are no cracks, after completing the aft crosstube inspection, prime and paint the inspection area by following the Accomplishment Instructions, Part B, paragraphs 6 and 7, of the ASB.

(4) Thereafter, at intervals not to exceed 450 takeoffs and landings, clean the inspection area. Using a 10X or higher magnifying glass, inspect the clear-coated area of the aft crosstube for a crack.

(5) If there is a crack, before further flight, replace the cracked aft crosstube with an airworthy aft crosstube.

(6) Within 30 days or before reaching 2,500 takeoffs and landings, whichever occurs later, and thereafter at intervals not to exceed 2,500 takeoffs and landings or 12 months, whichever occurs first, determine the horizontal deflection of each aft crosstube from the centerline of the helicopter (BL 0.0) to the outside of the skid tubes by following the Accomplishment Instructions, Part D, paragraphs 1 through 3, of the ASB. If the measured aft crosstube horizontal deflection depicted in Figure 2 of the ASB is less than 57 inches (1,448 mm) or greater than 59 inches (1,499 mm), replace the aft crosstube with an airworthy aft crosstube.

(7) Within 3 months or on or before reaching 7,500 takeoffs and landings, whichever occurs later, and thereafter at intervals not to exceed 5,000 takeoffs and landings:

(i) Remove the aft crosstube assembly by removing the aft crosstube support beam assembly, P/N 604–030–001, and both aft crosstube clamp assemblies, P/N 604–027–002.

(ii) Remove paint and sealant from the aft crosstube outboard of the upper center support to top of saddles, both sides, as depicted in Figure 3 of the ASB.

(iii) Fluorescent penetrant inspect each aft crosstube outboard of the upper center support as depicted in Figure 3 of the ASB for a crack.

(iv) If there is a crack, before further flight, replace the cracked aft crosstube with an airworthy aft crosstube.

(8) Revise the helicopter Airworthiness Limitations section of the applicable maintenance manuals or the Instructions for Continued Airworthiness (ICA) by establishing a new retirement life of 20,000 takeoff and landings for aft crosstube P/N 412–321–304 by making pen and ink changes or inserting a copy of this AD into the maintenance manual or the ICAs.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Martin R. Crane, Aviation Safety Engineer, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, email *martin.r.crane@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under

14 CFR part 119, 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 FAA-accepted AAI Instructions for Continued Airworthiness Report Number AA–01136, and the Bell Helicopter Textron Alert Service Bulletin No. 412–08–129, dated May 12, 2008, which are not incorporated by reference, contain additional information about inspecting the aft crosstube for a crack. For the AAI service information, contact Aeronautical Accessories, Inc., P.O. Box 3689, Bristol, Tennessee 37625–3689, telephone (423) 538–5151 or 1–800–251–7094, fax (423) 538–8469, or at *http://www.aero-access.com.* For the Bell Helicopter Textron service information, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files.*

(h) Subject

Joint Aircraft Service Component (JASC) Code: 32: Landing Gear.

(i) 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 10, 2012.

(i) Aeronautical Accessories, Inc., Alert Service Bulletin No. AA–07109, dated April 3, 2008.

(4) For this service information, contact Aeronautical Accessories, Inc., P.O. Box 3689, Bristol, Tennessee 37625–3689, telephone (423) 538–5151 or 1–800–251–7094, fax (423) 538–8469, or at *http://www.aero-access.com.*

(5) You may review a copy of this 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 25, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–15286 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0035; Directorate Identifier 2011–NM–178–AD; Amendment 39–17094; AD 2012–12–14]

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 certain The Boeing Company Model 767–200 and –300 series airplanes. This AD was prompted by reports of fatigue cracking on the lower main sill inner chord of the hatch opening of the overwing emergency exit. This AD requires repetitive inspections for cracking, corrosion damage, and any other irregularity of the lower main sill inner chord and surrounding structure, and repair if necessary. We are issuing this AD to detect and correct fatigue cracking on the lower main sill inner chord of the hatch opening of the overwing emergency exit, which could result in reduced structural integrity of the hatch opening of the overwing emergency exit and consequent rapid decompression of the airplane.

DATES: This AD is effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 30, 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; 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. 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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@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 January 23, 2012 (77 FR 3187). That NPRM proposed to require repetitive inspections for cracking, corrosion damage, and any other irregularity of the lower main sill inner chord and surrounding structure, and repair if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 3187, January 23, 2012) and the FAA's response to each comment.

Request To Clarify Terminating Action and Post-Repair Inspection Program

Boeing requested that we revise the wording in paragraph (g) of the NPRM (77 FR 3187, January 23, 2012) to clarify that the AD terminates only the repetitive inspections required by the NPRM. Boeing also stated that the inspection area designated in the NPRM may be subject to other repetitive inspections following repairs done per another AD.

All Nippon Airways (ANA) requested that we confirm that the post-repair inspection program is not mandatory.

Delta Air Lines (Delta) requested that the NPRM (77 FR 3187, January 23, 2012) be revised to include the use of the ''proactive'' doubler installations as a terminating action. Delta stated that paragraph (g) of the NPRM authorizes only the on-condition repair as a terminating action. Delta requested that we include a separate paragraph to define the terminating action provisions.

We agree that clarification is needed. Other ADs require inspections of certain structure covered by this AD. The certification basis of the airplane includes damage tolerance inspections for these repairs, and they are already available in the service repair manual (SRM). The required SRM repairs include post-repair inspections. These inspections are required by the regulations identified in the certification basis of the airplane and other operational rules, and not by this AD. We have clarified the terminating action for the inspections in this AD by revising paragraph (g) of this AD and adding paragraph (h) to this AD. To further clarify, the ''proactive'' doubler installation and the on-condition repair both terminate the inspections.

Request To Clarify the Applicability Regarding the Installation of Winglets

American Airlines (American) requested that we revise the NPRM (77 FR 3187, January 23, 2012) to clearly state how the compliance times for airplanes covered by the applicability of the NPRM are affected by the installation of winglets. American stated that many operators have affected airplanes by this AD which have been modified to have winglets.

Aviation Partners Boeing (APB) stated it has reviewed Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, and the NPRM (77 FR 3187, January 23, 2012) as it relates to the APB winglet supplemental type certificate (STC) ST01920SE and determined that the installation of the winglet STC does not affect this proposed rule. APB noted that data to support this comment is available from APB upon request from the FAA. We infer that APB is requesting that we clarify the effect of the STC on the proposed rule.

We agree to clarify. The installation of winglets as specified in STC ST01920SE does not affect accomplishment of the requirements of this AD, and an AMOC is not necessary for a ''change in product'' AMOC approval request. We have therefore added this provision in new Note 1 to paragraph (c) of this AD.

Request To Allow Re-Sequencing of Steps

American requested that we revise the ''Differences Between Proposed AD and the Service Information'' paragraph of the preamble, and paragraph (h)(2) of the NPRM (77 FR 3187, January 23, 2012) to allow re-sequencing of ''open-up'' and ''close-up'' steps only, while maintaining the sequence for inspection and repair. American stated that allowing re-sequencing of those steps would reduce the number of AMOC requests for tasks that do not address the unsafe condition.

We partially agree with the request. Because the ''Differences Between Proposed AD and the Service Information'' paragraph is not restated in the final rule, we have not made any change to the AD in that regard. However, we have revised paragraph (i)(2) of this AD (referred to as paragraph (h)(2) in the NPRM (77 FR 3187, January 23, 2012)) to state that ''open-up'' and ''close-up'' steps may be done in any practical order.

Change to Paragraph (j)(3) of the NPRM (77 FR 3187, January 23, 2012)

We incorrectly included a reference to 14 CFR 25.571, Amendment 45 in paragraph (i)(3) of the NPRM (77 FR 3187, January 23, 2012). That reference has been removed from this 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 (77 FR 3187, January 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 3187, January 23, 2012).

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 377 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
Inspection	28 work-hours × $85 per hour = $2,380 per inspection cycle.	$0	$2,380 per inspection cycle	$897,260 per inspection cycle.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions specified in this AD.

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):

2012–12–14 The Boeing Company: Amendment 39–17094; Docket No. FAA–2012–0035; Directorate Identifier 2011–NM–178–AD.

(a) Effective Date

This AD is effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200 and –300 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011.

Note 1 to paragraph (c) of this AD: Supplemental Type Certificate (STC) ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/082838ee177dbf62862576a4005cdfc0/$FILE/ST01920SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01920SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of fatigue cracking on the lower main sill inner chord of the hatch opening of the overwing emergency exit. We are issuing this AD to detect and correct fatigue cracking on the lower main sill inner chord of the hatch opening of the overwing emergency exit, which could result in reduced structural integrity of the hatch opening of the overwing emergency exit and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Repetitive Inspections and Repair

Within the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, except as provided by paragraph (i)(3) of this AD: Do a high frequency eddy current (HFEC) inspection for cracking of the lower main sill inner chord around body station (STA) 883.5; a detailed inspection for cracking, corrosion damage, and any other irregularity, of the lower main sill inner chord and surrounding structure around STA 883.5; and a detailed inspection for cracking, corrosion damage, or other irregularity, of the lower main sill inner chord and surrounding structure around STA 903.5; as applicable; and do all applicable repairs; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, except as required by paragraphs (i)(1) and (i)(2) of this AD. Do all applicable repairs before further flight. Repeat the applicable inspections thereafter within the applicable times and intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011. Doing a structural repair specified in paragraph (h) of this AD, terminates the inspections for that location only.

(h) Optional Terminating Action

Doing a structural repair (doubler installation) in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, terminates the inspections required by paragraph (g) of this AD for that location only.

(i) Exceptions

(1) If any cracking, corrosion damage, or other irregularity is found during any inspection required by this AD, and Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, specifies to contact Boeing for appropriate action: Before further flight, repair the cracking, corrosion damage, or other irregularity, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(2) Where Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, specifies that the sequence of steps to do the actions can be changed, this AD does not allow the sequence of steps to be changed for the inspection and repair; however, the open-up and close-up steps may be done in any practical order.

(3) Where Boeing Alert Service Bulletin 767–53A0228, dated July 28, 2011, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

(j) 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.

(k) Related Information

For more information about this AD, contact Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov*.

(l) 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 767–53A0228, dated July 28, 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; telephone 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 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 June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14829 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0189; Directorate Identifier 2011–NM–133–AD; Amendment 39–17102; AD 2012–12–22]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. This AD was prompted by a report of a crack found on the left-hand sidewall well on the nose landing gear (NLG). This AD requires performing a repetitive high frequency eddy current inspection of the stiffeners on the left-hand sidewall on the NLG bay for cracks, and repair or replace the sidewall if necessary. We are issuing this AD to detect and correct failure of the sidewall, which could result in consequent in-flight rapid decompression of the cabin and injury to the passengers.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2012.

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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 6, 2012 (77 FR 13230). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> During accomplishment of EASA AD 2007–0305 on an Avro 146–RJ85, a corner crack was found on the left hand Nose Landing Gear (NLG) sidewall well. The crack was located on one of the sidewall stiffeners adjacent to the area being inspected. In this instance, the cracking was severe enough to warrant replacement of the sidewall. Analysis has shown that these types of cracks are likely to exist or develop in other aeroplanes of the same design.
>
> This condition, if not detected and corrected, could result in failure of the sidewall and consequent in-flight rapid decompression of the cabin and injury to its occupants.
>
> For the reasons described above, this [EASA] AD requires repetitive [high frequency eddy current] inspections of the stiffeners [for cracks] on the left hand NLG sidewall. This [EASA] AD also introduces an optional terminating action for the repetitive inspections.

The corrective actions include repairing or replacing the sidewall with a new sidewall. 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 13230, March 6, 2012) or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 1 product of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the 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 $170.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $8,850, for a cost of $9,020 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 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 13230, March 6, 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 adding the following new AD:

2012–12–22 BAE Systems (Operations) Limited: Amendment 39–17102. Docket No. FAA–2012–0189; Directorate Identifier 2011–NM–133–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; all serial numbers; on which the left-hand sidewall of the nose landing gear (NLG) bay has one of the following part numbers (P/N) installed: HC537L0002–000, –002, and –004; HC537H8021–000, –002, and –004; and HC537H8018–000.

(d) Subject

Air Transport Association (ATA) of America Code 53: Fuselage.

(e) Reason

This AD was prompted by a report of a crack found on the left-hand sidewall well on the NLG. We are issuing this AD to detect and correct failure of the sidewall, which could result in consequent in-flight rapid decompression of the cabin and injury to the passengers.

(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) Inspection

Before the accumulation of 12,000 total flight cycles or within 4,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a high frequency eddy current inspection of the stiffeners on the left-hand sidewall on the NLG bay adjacent to the boss at the NLG retraction jack attachment pin hole, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–229, Revision 1, dated November 22, 2010. Repeat the inspection thereafter at intervals not to exceed 12,000 flight cycles, except as provided in paragraph (i) of this AD.

(h) Repair

If, during any inspection required by paragraph (g) of this AD, any crack is found in the sidewall stiffeners, before further flight repair the sidewall stiffeners, using a method approved by either the Manager, International Branch, ANM 116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (or its delegated agent); or do the replacement specified in paragraph (i) of this AD.

(i) Optional Replacement

Replacement of the sidewall stiffeners, with sidewall P/N HC537L0002–006, on any airplane, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–229, Revision 1, dated November 22, 2010, terminates the repetitive inspections required by paragraph (g) of this AD.

(j) Parts Installation

As of the effective date of this AD: No person may install a sidewall stiffener with P/N HC537L0002–000, –002, or –004; HC537H8021–000, –002, or –004; or HC537H8018–000; on any airplane.

(k) Credit for Previous Actions

This paragraph provides credit for inspections and replacements, as specified in paragraphs (g) and (i) of this AD, if those actions were performed before the effective date of this AD using BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–229, dated July 8, 2010.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(m) Related Information

Refer to MCAI EASA Airworthiness Directive 2011–0097, dated May 25, 2011; and BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–229, Revision 1, dated November 22, 2010; for related information.

(n) 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.

(i) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–229, Revision 1, dated November 22, 2010.

(3) If you accomplish the optional actions specified by this AD, you must use the following service information to perform those actions, unless the AD specifies otherwise.

(i) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–229, Revision 1, dated November 22, 2010.

(4) For BAE Systems (Operations) Limited service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm*.

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

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

Issued in Renton, Washington, on June 14, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15169 Filed 6–22–12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0106; Directorate Identifier 2011–NM–150–AD; Amendment 39–17093; AD 2012–12–13]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. This AD was prompted by reports of baggage bay fire bottles that can be misassembled such that two squib electrical connectors can be cross-connected. This AD requires a general visual inspection of certain baggage bay fire bottles for correct connection and for the length of the wiring loom, modification of the wiring loom to certain squib connectors, and corrective actions if necessary. We are issuing this AD to detect and correct excessive wiring loom length and improper connection of the squib connecters, which in conjunction with a fire in one of the baggage bays, could result in the fire extinguishing agent being discharged into a wrong compartment and consequent damage to the airplane.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2012.

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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 8, 2012 (77 FR 6520). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> The baggage bay fire bottles of certain BAe 146 and AVRO 146–RJ aeroplanes can be misassembled such that two squib electrical connectors can be cross-connected. This has been caused by an error in the baggage bay fire bottle Component Manufacturer Manual (CMM) and by excessive wiring loom length.
>
> This condition, if not corrected and in conjunction with a fire in one of the baggage bays, could result in the fire extinguishant to be discharged into a wrong compartment and consequent potential damage to the aircraft * * *.
>
> In addition to the CMM revision, to address this unsafe condition, BAE Systems developed modifications to reroute the baggage bay fire bottle wiring looms and prevent crossed electrical connections.
>
> For the reasons described above, this [EASA] AD requires the implementation of modifications HCM36250A and HCM36250B to affected aeroplanes.

Required actions include general visual inspections of certain baggage bay fire bottles for correct connection and for the length of the wiring loom, modification of the wiring loom to certain squib connectors, and corrective actions if necessary. Corrective actions include reconnecting the squib connectors and modifying the loom to proper length. 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 6520, February 8, 2012) or on the determination of the cost to the public.

Revised Heading and Wording for Credit Paragraph

We have revised the heading and wording for paragraph (h) of this AD. This change does not affect the intent of that paragraph.

Conclusion

We reviewed the available, and determined that air safety and the public interest require adopting the AD with the changes described previously—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 6520, February 8, 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 6520, February 8, 2012).

Costs of Compliance

We estimate that this AD will affect 1 product 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 $170 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operator to be $680 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $170, for a cost of $425 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 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 6520, February 8, 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 adding the following new AD:

2012–12–13 BAE Systems (Operations) Limited: Amendment 39–17093. Docket No. FAA–2012–0106; Directorate Identifier 2011–NM–150–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes, and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; all serial numbers, on which modification HCM30480A, HCM30480B, HCM30480C, HCM30480D, HCM30480E, or HCM30480F are embodied.

(d) Subject

Air Transport Association (ATA) of America Code 26: Fire Protection.

(e) Reason

This AD was prompted by reports of baggage bay fire bottles that can be misassembled such that two squib electrical connectors can be cross-connected. We are issuing this AD to detect and correct excessive wiring loom length and improper connection of the squib connecters, which in conjunction with a fire in one of the baggage bays, could result in the fire extinguishing agent being discharged into a wrong compartment and consequent damage to 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) Inspection/Modification

Within 3 months after the effective date of this AD, do the actions specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), (g)(5), and (g)(6) of this AD.

(1) Do a general visual inspection of baggage bay fire bottle WB8 having part number (P/N) 473997–1 for correct connection of the squib connectors identified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD, in accordance with paragraph 2.C.(3) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011. If any items are found improperly connected, before further flight, reconnect the squib connectors properly, in accordance with paragraph 2.C.(3) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(i) Squib connector WB8P1 (S1446–004A) and cartridge P/N 446307.

(ii) Squib connector WB8P2 (S1446–004D) and squib P/N 446290.

(2) Do a general visual inspection of the length of the wiring loom at the squib connector WB8P2 for excessive length that could cause the connector to become cross-connected with squib connector WB8P1, in accordance with paragraph 2.C.(4) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011. If excessive length is found, before further flight, modify the loom, in accordance with paragraph 2.C.(4) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(3) Do a general visual inspection of baggage bay fire bottle WB7 having P/N 473996–1 for correct connection of squib connectors identified in paragraphs (g)(3)(i) and (g)(3)(ii) of this AD, in accordance with paragraph 2.C.(5) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011. If any items are found improperly connected, before further flight, reconnect the squib connectors properly, in accordance with paragraph 2.C.(5) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(i) Squib connector WB7P1 (S1446–004A) and cartridge P/N 446307.

(ii) Squib connector WB7P2 (S1446–004D) and squib P/N 446290.

(4) Modify the wiring loom to squib connector WB7P2, in accordance with paragraphs 2.C.(6)(a) and 2.C.(6)(c) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(5) Modify the wiring loom to squib connector WB7P1, in accordance with paragraph 2.C.(6)(b) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(6) Install modification HCM36250B, in accordance with paragraph 2.C.(7) of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

Note 1 to paragraph (g) of this AD: Guidance for test and close-up procedures can be found in paragraphs 2.D. and 2.E. of the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(h) Credit for Previous Actions

This paragraph provides credit for installing the modification HCM36250A required by paragraphs (g)(1), (g)(2), (g)(3), (g)(4), and (g)(5) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (h)(1) through (h)(4) of this AD.

(1) BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A, dated September 4, 2009.

(2) BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A, Revision 1, dated September 11, 2009.

(3) BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 2, dated October 14, 2010.

(4) BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 3, dated November 23, 2010.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0065, dated April 7, 2011; and BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011; for related information.

(k) 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.

(i) BAE Systems (Operations) Limited Modification Service Bulletin SB.26–077–36250A.B, Revision 4, dated January 7, 2011.

(3) For BAE Systems (Operations) Limited service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.*

(4) 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.

(5) 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 June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14729 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0659; Directorate Identifier 2011–SW–061–AD; Amendment 39–17101; AD 2012–12–21]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 C–2 helicopters. That AD currently requires revising the ''Emergency and Malfunction Procedures'' and ''Performance Data'' sections of the Rotorcraft Flight Manual (RFM) by inserting three temporary pages into the RFM to alert pilots to monitor the power display when a generator is deactivated and provides procedures to prevent failure of the remaining generator. Before we issued that AD, the manufacturer developed a procedure to modify the two ''After Junction Boxes'' by removing a diode from each box, which provides terminating action for our AD requirements. These actions are intended to require implementing this terminating action to prevent an electrical power system failure and subsequent loss of control of the helicopter and revising the RFM accordingly, by removing the temporary pages inserted to comply with the superseded AD.

DATES: This AD becomes effective July 10, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of July 10, 2012.

We must receive comments on this AD by August 24, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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, the economic 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.

For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222–5110, email: *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file

in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

On September 29, 2011, we issued AD 2011–21–13 (76 FR 68299, November 4, 2011), for all ECD model MBB–BK 117 C–2 helicopters. Our AD 2011–21–13 was based on European Aviation Safety Agency (EASA) Emergency AD No. 2010–0268–E, dated December 21, 2010 (EAD 2010–0268–E), requiring the introduction of additional RFM procedures to monitor the electrical power display generator amperes (GEN AMPS) on the Vehicle and Engine Multifunction Display (VEMD) during switching of the generator. EASA advised that some ECD MBB–BK117 C–2 helicopters detected an excessive current flow when one generator was deactivated. This situation, if not detected and corrected, could lead to failure of the generator, likely resulting in loss of electrical power and inducing loss of systems that are necessary for safe flight. To address this unsafe condition, AD 2011–21–13 requires revising the ''Emergency and Malfunction Procedures'' and the ''Performance Data'' sections of the RFM by inserting three temporary pages from ECD Alert Service Bulletin (ASB) No. ASB MBB BK117 C–2–24A–008, dated December 20, 2010 (MBB BK117 C–2–24A–008). Those pages require operators to insert pages into the RFM, which provide that pilots visually monitor the power display GEN AMPS on the VEMD for too high of a current when a generator is shut down, such as during the ENGINE POWER CHECK. These revised RFM provisions provide for switching off the two main electrical buses on the overhead panel to prevent the operating generator from being damaged when the other generator is shut down. We issued AD 2011–21–13 to prevent failure of a generator, which could result in loss of electrical power, loss of systems necessary for flight safety, and subsequent loss of control of the helicopter.

Actions Since Existing AD Was Issued

Before we issued AD 2011–21–13 (76 FR 68299, November 4, 2011), EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2011–0162, dated August 30, 2011 (AD 2011–0162). In AD 2011–0162, EASA states that ECD has developed a modification to prevent the possibility of too high current flow when a generator is deactivated, and updated the RFM procedures accordingly. This EASA AD requires the RFM changes introduced by EAD 2010–0268–E to be removed. The EASA AD also requires modification of the Generator Relay left-hand and right-hand After Junction Boxes by removing diodes, CR10007 and CR10008, respectively, on ECD MBB–BK117 C–2 helicopters, serial numbers 9004 through 9500. Through this AD action, the FAA is requiring this same modification to the After Junction Boxes in helicopters registered in the United States and removal of the same pages from the RFM that were introduced by AD 2011–21–13.

FAA's Determination

These helicopters have been approved by the aviation authority of the Federal Republic of Germany (FRG) and are approved for operation in the United States. Pursuant to our bilateral agreement with the FRG, EASA, their 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 EASA and determined the unsafe condition is likely to exist or develop on other helicopters of the same type design.

Related Service Information

We reviewed ECD ASB MBB BK117 C–2–24A–008, Revision 1, dated August 29, 2011. The ASB describes procedures for removing two diodes on the generator relays in the After Junction Boxes. EASA classified this ASB as mandatory and issued AD 2011–0162 to ensure the continued airworthiness of these helicopters.

AD Requirements

This AD requires, within 30 days, removing temporary pages from the RFM that were inserted for AD 2011–21–13. This AD also requires modifying Generator Relay left-hand and right-hand After Junction Boxes by removing diodes, CR10007 and CR10008.

Differences Between This AD and the EASA AD

The EASA AD requires compliance by September 6, 2011; the FAA requires compliance within 30 days from the effective date of the AD.

Costs of Compliance

We estimate that this AD affects 232 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Removing the diodes from the after junction boxes will require 2 work hours at an average labor cost of $85 per hour and incorporating the changes into the RFM will require .5 work hour for a total cost per operator of $213 and a cost to the entire U.S. fleet of $49,416.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the required corrective actions must be accomplished within 30 days.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

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, 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 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 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 removing Amendment 39–16836 (76 FR 68299, November 4, 2011), and adding the following new airworthiness directive (AD):

2012–12–21 Eurocopter Deutschland GMBH: Amendment 39–17101; Docket No. FAA–2012–0659; Directorate Identifier 2011–SW–061–AD.

(a) Applicability

This AD applies to Model MBB–BK 117 C–2 helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as excessively high reverse current flow when switching off a generator during flight, which could make the remaining generator fail and result in a complete electrical power system failure and subsequent loss of control of the helicopter.

(c) Other Affected ADs

This AD supersedes AD 2011–21–13, Amendment 39–16836 (76 FR 68299, November 4, 2011).

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Action

Within 30 days:

(1) Remove the specified temporary pages from the following sections of the rotorcraft flight manual (RFM) RFM BK 117 C–2:

(i) ''Emergency and Malfunction Procedures'': pages 3–3 and 3–4, and

(ii) ''Performance Data'': page 5–7.

(2) Remove diodes CR10007 and CR10008 from the generator relays in the left-hand and right-hand After Junction Boxes, respectively, in accordance with the Accomplishment Instructions, paragraphs 3.B.2.(a) through 3.B.2.(d), and as depicted in Figures 1 and 2, of Eurocopter Alert Service Bulletin ASB MBB BK117 C–2–24A–008 Revision 1, dated August 29, 2011.

(3) Test the DC Power system for proper operation.

(4) Do not install an After Junction Box on any helicopter, unless the After Junction Box has been modified in accordance with the requirements of 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: George Schwab, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222–5114, email: *george.schwab@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 the European Aviation Safety Agency AD No. 2011–0162, dated August 30, 2011.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2435: Starter Generator.

(i) Material Incorporated by Reference

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

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

(i) Eurocopter Alert Service Bulletin ASB MBB BK117 C–2–24A–008 Revision 1, dated August 29, 2011.

(ii) Reserved.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(5) You may also view this service information 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 June 14, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–15325 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0013; Directorate Identifier 2010–SW–043–AD; Amendment 39–17090; AD 2012–12–10]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model AB139 and AW139 helicopters with a certain generator control unit (GCU), to require replacing each affected GCU with an airworthy GCU. This AD was prompted by laboratory tests which revealed a potential fault in the overvoltage protection on a certain part-numbered GCU. The actions are intended to prevent failure of the overvoltage protection of the GCU, degraded performance of the electrical power generation and distribution systems, a fire, and subsequent loss of control of the helicopter.

DATES: This AD is effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2012.

ADDRESSES: For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.* You may review a copy of 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: Mark Wiley, Aerospace Engineer, FAA, Regulations and Policy Group, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5134; fax (817) 222–5961; email *mark.wiley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On January 20, 2012, at 77 FR 2926, 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 Agusta Model AB139 and AW139 helicopters, with a GCU, part-number (P/N) 1152550–3, installed. That NPRM proposed to require, within 6 months, removing the No. 1 and No. 2 GCU, P/N 1152550–3, modifying the electrical connectors A13P1 and A14P1 by installing wiring to the power distribution panel, and installing a No. 1 and No. 2 GCU with P/N 1152550–4 or 1152550–5. Both GCUs must have identical P/Ns on the same helicopter. The proposed requirements were intended to prevent failure of the overvoltage protection of the GCU, degraded performance of the electrical power generation and distribution systems, a fire, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2009–0042, dated February 25, 2009 (AD 2009–0042), to correct an unsafe condition for the Agusta Model AB139 and AW139 helicopters, all serial numbers (S/Ns) except S/Ns 31002, 31003, 31004, and 31007. EASA advises that laboratory tests performed on a new GCU model under development have shown a potential fault in the overvoltage protection of currently installed GCUs, P/N 1152550–3. EASA also advises that this condition, if not corrected, could adversely affect the helicopter's electrical power generation and distribution system functionalities.

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 Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, 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 that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs. We have determined that air safety and the public interest require adopting the AD requirements as proposed, except for a typographical correction in the Related Service Information paragraph of the NPRM, which referred to the EASA AD as ''2009–0048'' instead of ''2009–0042.'' This change is 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

The EASA AD does not apply to certain serial-numbered Model AB139 and AW139 helicopters, whereas this AD applies to all serial-numbered Model AB139 and AW139 helicopters.

Related Service Information

Agusta S.p.A. issued Mandatory Bollettino Tecnico No. 139–133, Rev. A, dated March 17, 2009 (BT), for Model AB139 and AW139 helicopters, S/Ns 31005 up to S/N 31143, except for S/Ns 31007, 31037, 31038, 31094; S/N 31112; S/Ns 31146 up to S/N 31148; S/N 31155; S/Ns 31201 up to S/N 31218; and S/Ns 41001 up to S/N 41022, except S/N 41007; with a GCU, P/N 1152550–3. This BT specifies, within 6 months from receipt of the BT, removing GCU, P/N 1152550–3, modifying electrical connector A13P1 and A14P1, and replacing each GCU with an airworthy GCU, P/N 1152550–4 or 1152550–5, to improve electrical power generation and distribution system functionalities. EASA classified this BT as mandatory and issued AD 2009–0042 to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD will affect 72 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD. We estimate that it will take about 4 work-hours to perform the required actions of this AD per helicopter at an average labor rate of $85 per work-hour, and required parts will cost about $42,384 per helicopter. Based on these figures, we estimate the cost to be $42,724 per helicopter and the total cost impact of the AD for U.S. operators to be $3,076,128.

According to the Agusta service information 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 by Agusta. Accordingly, 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 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):

2012–12–10 Agusta S.p.A. Helicopters: Amendment 39–17090; Docket No. FAA–2012–0013; Directorate Identifier 2010–SW–043–AD.

(a) Applicability

This AD applies to Agusta S.p.A. (Agusta) Model AB139 and AW139 helicopters, with a generator control unit (GCU), part-number (P/N) 1152550–3 installed; certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a potential fault in the overvoltage protection in GCUs currently installed on Model AB139 and AW139 helicopters. This condition could result in failure of the overvoltage protection of the GCU, degraded performance of the electrical power generation and distribution systems, or fire, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective July 30, 2012.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Remove the No. 1 and No. 2 GCU, P/N 1152550–3. Do not install GCU, P/N 1152550–3, on any helicopter.

(2) Modify the electrical connector A13P1 (GCU No. 1) and A14P1 (GCU No. 2) by installing the wiring to the power distribution panel (PDP) for your serial-numbered helicopter as depicted in Figure 1 of Agusta Bollettino Tecnico No. 139–133, Rev. A, dated March 17, 2009.

(3) Using either GCU P/N 1152550–4 or GCU P/N 1152550–5, install a No. 1 and No. 2 GCU that has the same part number. Having different part-numbered GCUs on the same helicopter is not approved.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Mark Wiley, Aerospace Engineer, FAA, Regulations and Policy Group, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5134; fax (817) 222–5961; email *mark.wiley@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 (EASA) AD No. 2009–0042, dated February 25, 2009.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2430, DC generating system.

(i) 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 10, 2012.

(i) Agusta Bollettino Tecnico No. 139–133, Rev. A, dated March 17, 2009.

(4) For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, Attn: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.*

(5) You may review a copy of 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 June 8, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–14797 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1412; Directorate Identifier 2011–NM–158–AD; Amendment 39–17088; AD 2012–12–08]

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 certain The Boeing Company Model 777–200 and –300 series airplanes. This AD was prompted by reports of cracked retract actuator fuse pins that can fail earlier than the previously determined safe life limit of the pins. A fractured retract actuator fuse pin can cause the main landing gear to extend without restriction and attempt to lock into position under high dynamic loads. This AD requires an inspection for the part number of the fuse pin, and replacement of the pin if necessary. We are issuing this AD to prevent structural damage to the side and drag brace lock assemblies, which could result in landing gear collapse during touchdown, rollout, or taxi.

DATES: This AD is effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 30, 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; telephone 206–544–5000, extension 1; fax 206–766–5680; 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, 1601 Lind Avenue SW., Renton, WA 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 30, 2011 (76 FR 82210). That NPRM proposed to require an inspection for the part number of the fuse pin, and replacement of the pin 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 82210, December 30, 2011) and the FAA's response to each comment.

Request To Revise the Compliance Time and Include Revised Service Information

Boeing and United Airlines requested that we revise the NPRM (76 FR 82210, December 30, 2011) to refer to Boeing Special Attention Service Bulletin 777–32–0083, Revision 2 (not yet released). Boeing stated that it had performed a new risk-based assessment and found that 18 months is adequate to mitigate the remaining fleet risk. Boeing requested the compliance time be changed to 18 months from the date of the service bulletin. Also, Boeing requested that we provide credit for actions accomplished in accordance with Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011.

We partially agree. We agree to update the compliance time to 18 months based on the new risk-based safety assessment. We revised paragraphs (g), (g)(2), and (g)(3) of this AD to reflect an initial compliance time of 18 months. We disagree with delaying issuance of the final rule to reference Boeing Special Attention Service Bulletin 777–32–0083, Revision 2, because that service information is not published at this time. Operators may request approval of an alternative method of compliance (AMOC) once Revision 2 of Boeing Special Attention Service Bulletin 777–32–0083 is released.

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 82210, December 30, 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 82210, December 30, 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 proposed AD affects 35 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
Inspection	4 work-hours × $85 per hour = $340	$0	$340	$11,900

We estimate the following costs to do any necessary pin 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
Pin replacement	1 work-hour × $85 per hour = $85 per pin.	$769 per pin	$854 per pin.

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 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.

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):

2012–12–08 The Boeing Company: Amendment 39–17088; Docket No. FAA–2011–1412; Directorate Identifier 2011–NM–158–AD.

(a) Effective Date

This AD is effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200 and –S300 series airplanes; certificated in any category; as identified in Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 32: Main landing gear.

(e) Unsafe Condition

This AD was prompted by reports of cracked retract actuator fuse pins that can fail earlier than the previously determined safe life limit of the pins. A fractured retract actuator fuse pin can cause the main landing gear (MLG) to extend without restriction and attempt to lock into position under high dynamic loads. We are issuing this AD to prevent structural damage to the side and drag brace lock assemblies, which could result in landing gear collapse during touchdown, rollout, or taxi.

(f) Compliance

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

(g) Inspection of Retract Actuator Fuse Pin

Within 18 months after the effective date of this AD: Inspect the part number of the fuse pins of the left and right MLG retract actuators, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the installed actuator fuse pin can be conclusively determined from that review.

(1) If any retract actuator fuse pin having part number 112W1769–3 is found installed, no further action is required by this paragraph for that fuse pin.

(2) If any retract actuator fuse pin having part number 112W1769–1 is found installed and the pin has accumulated more than 10,000 total flight cycles as of the effective date of this AD: Within 18 months after the effective date of this AD, replace the fuse pin with a new part number 112W1769–3 fuse pin, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011.

(3) If any retract actuator fuse pin having part number 112W1769–1 is found installed and the pin has accumulated 8,000 or more total flight cycles, but fewer than or equal to 10,000 total flight cycles, as of the effective date of this AD: Before the accumulation of 10,000 total flight cycles on the pin, or within 18 months after the effective date of this AD, whichever occurs later, replace the fuse pin with a new part number 112W1769–3 fuse pin, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011.

(4) If any retract actuator fuse pin having part number 112W1769–1 is found installed and the pin has accumulated fewer than 8,000 total flight cycles as of the effective date of this AD: Before the accumulation of 8,000 total flight cycles on the pin, or within 24 months after the effective date of this AD, whichever occurs later, replace the fuse pin with a new part number 112W1769–3 fuse pin, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011.

(h) Parts Installation

As of the effective date of this AD, no person may install a retract actuator fuse pin having part number 112W1769–1 on any airplane.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 777–32–0083, dated February 5, 2009.

(j) 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 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.

(k) Related Information

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

(l) 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.

(i) Boeing Special Attention Service Bulletin 777–32–0083, Revision 1, dated February 17, 2011.

(3) 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; Internet *https://www.myboeingfleet.com.*

(4) 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.

(5) 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 June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14544 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0300; Directorate Identifier 2011–NM–276–AD; Amendment 39–17086; AD 2012–12–06]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This AD was prompted by a design review which revealed the absence of electrical insulation material between a wing or integral center wing tank (ICWT) fuel quantity indication system (FQIS) probe and the bottom of the tank structure. This AD requires for all airplanes, applying sealant below the FQIS probes in the wing tanks; and for certain airplanes, applying sealant below the FQIS probes in the ICWT. This AD also requires revising the aircraft maintenance program by revising the fuel airworthiness limitations and incorporating critical design configuration control limitations (CDCCLs). We are issuing this AD to prevent an ignition source in the tank vapor space, which could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2012.

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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 27, 2012 (77 FR 18141). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> [T]he FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12. The design review conducted by Fokker Services on the Fokker 70 and Fokker 100 in response to these regulations revealed that the absence of electrical insulation material between a wing or Integral Center Wing Tank (ICWT) Fuel Quantity Indication System (FQIS) probe and the bottom of the tank structure could, under certain conditions, result in an ignition source in the tank vapour space.
>
> This condition, if not corrected, could result in a fuel tank explosion and consequent loss of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires the application of sealant below the FQIS probes in the wing tanks and below the FQIS probes in the ICWT, as applicable to aeroplane configuration. * * *

The corrective actions also include revising the aircraft maintenance program by revising the fuel airworthiness limitations and incorporating CDCCLs. 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 18141, March 27, 2012) or on the determination of the cost to the public.

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 18141, March 27, 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 18141, March 27, 2012).

Costs of Compliance

We estimate that this AD will affect 4 products of U.S. registry. We also estimate that it will take about 8 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 $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,720, or $680 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 18141, March 27, 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 adding the following new AD:

2012–12–06 Fokker Services B.V.: Amendment 39–17086. Docket No. FAA–2012–0300; Directorate Identifier 2011–NM–276–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(2) This AD requires revisions to certain operator maintenance documents to include new actions (e.g., inspections) and/or critical design configuration control limitations (CDCCLs). Compliance with these actions and/or CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

(d) Subject

Air Transport Association (ATA) of America Code 28: Fuel.

(e) Reason

This AD was prompted by a design review which revealed the absence of electrical insulation material between a wing or integral center wing tank (ICWT) fuel quantity indication system (FQIS) probe and the bottom of the tank structure. We are issuing this AD to prevent an ignition source in the tank vapor space, which could result in a fuel tank explosion and consequent loss 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) Sealant Application

Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, as applicable.

(1) For all airplanes: At a scheduled opening of the fuel tanks, but not later than 84 months after the effective date of this AD, apply sealant below the probes in the wing tanks, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–067, dated September 2, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–144, dated September 2, 2011.

(2) For airplanes having serial numbers 11442 through 11585 inclusive, and equipped with an ICWT: At a scheduled opening of the fuel tanks, but not later than 84 months after the effective date of this AD, apply sealant below the probes in the ICWT, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–067, dated September 2, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–144, dated September 2, 2011.

(h) Maintenance Program Revision

Before further flight after doing any action required by paragraph (g) of this AD, revise the aircraft maintenance program by incorporating the fuel airworthiness limitation and the CDCCL specified in paragraph 1.L.(1)(c) of Fokker Service Bulletin SBF100–28–067, dated September 2, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–144, dated September 2, 2011.

(i) No Alternative Actions, Intervals, and/or CDCCLs

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0227, dated December 6, 2011; and Fokker Service Bulletin SBF100–28–067, dated September 2, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–144, dated September 2, 2011; for related information.

(l) 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.

(i) Fokker Service Bulletin SBF100–28–067, dated September 2, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–144, dated September 2, 2011.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; email *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

(4) 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.

(5) 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 June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14547 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0298; Directorate Identifier 2011–NM–072–AD; Amendment 39–17096; AD 2012–12–16]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This AD was prompted by reports of cracking of certain fuel access panels of the outer wing. This AD requires an external inspection, and if necessary an internal inspection, to determine if certain fuel access panels are installed, and replacement if necessary; optional repetitive inspections for cracking of the fuel access panels, and replacement if necessary, would defer the internal inspection; and eventual replacement of affected fuel access panels with new panels. We are issuing this AD to prevent cracking of fuel access panels, which could result in arcing and ignition of fuel vapor in the outer wing fuel tank during a lightning strike.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 30, 2012.

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: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 40, Westbury, New York 11590; telephone (516) 228–7329; 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 March 27, 2012 (77 FR 18135). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> [Canadian] Airworthiness Directive (AD) CF–2005–37 was issued on 11 October 2005 to address cracking of the outer wing fuel access panel, Part Number (P/N) 85714230–001. Similar cracking on an outer wing fuel access panel, P/N 85714231–001, has been reported. Further investigation revealed that certain fuel access panels may have seal grooves manufactured with non-conforming fillet radii which could lead to cracking. Cracking of the fuel access panel, if not corrected, could result in arcing and ignition of fuel vapor in the outer wing fuel tank during a lightning strike.
>
> This [TCCA] directive mandates the inspection and replacement of the affected fuel access panels.

Required actions include an external detailed inspection of the outer wing access panels for rivets of the identification plate, and an internal inspection of panels without rivets to determine if the identification plate is installed, and replacing the fuel access panel if necessary. As an option, this AD allows repetitive external detailed inspections for cracking of the fuel access panels and, replacing if necessary, until the internal inspection is done. This AD also requires eventually replacing the affected fuel access panels with new fuel access panels. 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 18135, March 27, 2012) or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 74 products of U.S. registry. We also estimate that it will take about 36 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 $33,632 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,715,208, or $36,692 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 18135, March 27, 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 adding the following new AD:

2012–12–16 Bombardier, Inc.: Amendment 39–17096. Docket No. FAA–2012–0298; Directorate Identifier 2011–NM–072–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes; certificated in any category; serial numbers 4001 and 4003 through 4106 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking of certain fuel access panels of the outer wing. We are issuing this AD to prevent cracking of fuel access panels, which could result in arcing and ignition of fuel vapor in the outer wing fuel tank during a lightning strike.

(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) Inspection and Replacement of Part Number (P/N) 85714231–001

Within 600 flight hours after the effective date of this AD, do an external detailed inspection of the outer wing access panels having P/N 85714231–001 to locate the rivets of the identification plates, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011. If the rivets of the identification plate are found, no further action is required by this paragraph for that fuel access panel. If the rivets of the identification plate cannot be found: Before further flight, do the actions specified in paragraph (g)(1) or (g)(2) of this AD.

(1) Remove fuel access panels having P/N 85714231–001 and inspect the panels to determine if the identification plate is installed, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011. If the identification plate is found: No further action is required by paragraph (g) of this AD for that fuel access panel.

(i) If the identification plate cannot be found, and the job detail number stamped on the underside of the access panel does not match any of those listed in table 1 of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011: No further action is required by paragraph (g) of this AD for that fuel access panel.

(ii) If the identification plate cannot be found, and the job detail number stamped on the underside of the fuel access panel does match any of those specified in table 1 of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011: Before further flight, replace the fuel access panel with a new fuel access panel having P/N 85714231–003, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011.

(2) Do an external detailed inspection on fuel access panels having P/N 85714231–001 for cracking, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011. If no cracking is found: Repeat the inspection thereafter at intervals not to exceed 600 flight hours until the replacement specified in paragraph (g)(2)(i) of this AD, or the inspection specified in paragraph (g)(1) of this AD, is done.

(i) If the fuel access panel is found cracked during any inspection required by this AD: Before further flight, replace the fuel access panel with a new fuel access panel having P/N 85714231–003, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011.

(ii) Within 6,000 flight hours after the initial inspection required by paragraph (g)(2) of this AD, do the actions specified by paragraph (g)(1) of this AD, unless the replacement required by paragraph (g)(2)(i) of this AD is done.

(h) Inspection and Replacement of P/N 85714232–001

Within 1,200 flight hours after the effective date of this AD, do an external detailed inspection of the outer wing access panels having P/N 85714232–001 to locate the rivets of the identification plates, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011. If the rivets of the identification plate are found: No further action is required by this paragraph for that fuel access panel. If the rivets of the identification plate cannot be found: Before further flight, do the actions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Remove fuel access panels having P/N 85714232–001 and inspect the panels to determine if the identification plate is installed, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011. If the identification plate is found: No further action is required by paragraph (h) of this AD for that fuel access panel.

(i) If the identification plate cannot be found, and the job detail number stamped on the underside of the access panel does not match any of those specified in table 1 of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011: No further action is required by paragraph (h) of this AD for that fuel access panel.

(ii) If the identification plate cannot be found, and the job detail number stamped on the underside of the fuel access panel does match any of those specified in table 1 of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011: Before further flight, replace the fuel access panel with a new fuel access panel having P/N 85714232–003, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011.

(2) Do an external detailed inspection on fuel access panels having P/N 85714232–001 for cracking, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011. If no cracking is found: Repeat the inspection thereafter at intervals not to exceed 1,200 flight hours until the replacement specified in paragraph (h)(2)(i) of this AD, or the inspection specified in paragraph (h)(1) of this AD, is done.

(i) If the fuel access panel is found cracked during any inspection required by this AD: Before further flight, replace the fuel access panel with a new fuel access panel having P/N 85714232–003, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011.

(ii) Within 12,000 flight hours after the initial inspection required by paragraph (h)(2) of this AD, do the actions specified in paragraph (h)(1) of this AD, unless the replacement required by paragraph (h)(2)(i) of this AD is done.

(i) Parts Installation

As of the effective date of this AD, no person may install a fuel access panel having P/N 85714231–001 and a job detail number listed in table 1 of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–22, Revision B, dated February 16,

2011; or having P/N 85714232–001 and a job detail number listed in table 1 of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011; on any airplane.

(j) Credit for Previous Actions

This paragraph provides credit for inspections and fuel access panel replacements required by this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–57–22, Revision A, dated December 9, 2010; or Bombardier Service Bulletin 84–57–23, Revision A, dated December 9, 2010; as applicable.

(k) 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 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.

(l) 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.

(i) Bombardier Service Bulletin 84–57–22, Revision B, dated February 16, 2011.

(ii) Bombardier Service Bulletin 84–57–23, Revision B, dated February 16, 2011.

(3) For Bombardier, Inc. service information identified in this AD, contact Bombardier, Inc., Q–Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) 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.

(5) 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 June 11, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14916 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0039; Directorate Identifier 2011–NM–144–AD; Amendment 39–17087; AD 2012–12–07]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This AD was prompted by reports of cracks underneath the passenger door in a butt-joint on the forward fuselage of a Model F.28 Mark 0100 airplane. This AD requires repetitive low frequency eddy current inspections of the forward fuselage butt-joints for cracks, and if necessary, a temporary repair followed by a permanent repair. We are issuing this AD to detect and correct cracking of the butt-joint on the forward fuselage, which could result in explosive decompression and consequent loss of control of the airplane.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 30, 2012.

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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 6, 2012 (77 FR 5724). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> A report has been received of a crack, detected in a butt-joint on the forward fuselage of an F28 Mark 0100 aeroplane, underneath the passenger door.
>
> Investigations revealed that, depending on the configuration of the aeroplane, one or two butt-joints in the forward fuselage can be affected.
>
> This condition, if not detected and corrected, could lead to explosive decompression and consequent loss of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires repetitive [low frequency eddy current] inspections of the forward fuselage butt joints for cracks and, when a crack is detected, accomplishment of a temporary repair. This [EASA] AD also requires reporting any cracks found to Fokker Services to enable the development of a modification and the determination of an interval for a repetitive inspection task, to be incorporated in the ALI [airworthiness limitations instructions] section of the MRB [maintenance review board] document. This [EASA] AD is considered to be an interim measure and further AD action is likely.

Required actions include a permanent repair of the forward fuselage butt-joints. 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 5724, February 6, 2012) or on the determination of the cost to the public.

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 5724, February 6, 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 5724, February 6, 2012).

Costs of Compliance

We estimate that this AD will affect 4 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the 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 $1,020, or $255 per product.

In addition, we estimate that any necessary follow-on actions would take about 40 work-hours and require parts costing $0, for a cost of $3,400 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 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 5724, February 6, 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 adding the following new AD:

2012–12–07 Fokker Services B.V.: Amendment 39–17087. Docket No. FAA–2012–0039; Directorate Identifier 2011–NM–144–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, as identified in Fokker Service Bulletin SBF100–53–115, dated June 16, 2011.

(d) Subject

Air Transport Association (ATA) of America Code 53: Fuselage.

(e) Reason

This AD was prompted by reports of cracks underneath the passenger door in a butt-joint on the forward fuselage of a Model F.28 Mark 0100 airplane. We are issuing this AD to detect and correct cracking of the butt-joint on the forward fuselage, which could result in explosive decompression and consequent loss of control 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) Inspection

Before the accumulation of 20,000 total flight cycles, or within 180 flight cycles after the effective date of this AD, whichever occurs later, do a low frequency eddy current inspection of the forward fuselage butt-joints for cracks, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–115, dated June 16, 2011. Repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles. Doing the temporary repair in paragraph (h) of this AD is terminating action for the repetitive inspections required by this paragraph. The temporary repair can also be accomplished if no cracking is found.

(h) Temporary Repair

If any cracking is found during any inspection required by paragraph (g) of this AD, before further flight, do a temporary repair, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–115, dated June 16, 2011. Doing the temporary repair is terminating action for the repetitive inspections required by paragraph (g) of this AD.

(i) Permanent Repair

Within 10,000 flight cycles after installing the temporary repair, as required by paragraph (h) of this AD, install a permanent repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

(j) Reporting

Submit a report of the findings (both positive and negative), to Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, using the reports form of Fokker Service Bulletin SBF100–53–115, dated June 16, 2011, of the inspection required by paragraph (g) of this AD, at the applicable time specified in paragraph (j)(1) or (j)(2) of this AD.

(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.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance* (*AMOCs*): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local

Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to Attn: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(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.

(l) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0115, dated June 17, 2011; and Fokker Service Bulletin SBF100–53–115, dated June 16, 2011; for related information.

(m) 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.

(i) Fokker Service Bulletin SBF100–53–115, dated June 16, 2011.

(3) For Fokker service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; email *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com*

(4) 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.

(5) 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 June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14546 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0566; Directorate Identifier 2011–SW–008–AD; Amendment 39–17065; AD 2012–11–02]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) that supersedes an existing Emergency Airworthiness Directive (EAD) for certain Eurocopter Deutschland GmbH (ECD) Model EC135 helicopters. The existing EAD, which was previously sent to all known U.S. owners and operators of ECD Model EC135 helicopters and not made generally effective by publication in the **Federal Register**, currently requires inspecting the ring frame between the rear structure tube (tailboom) and the tail rotor fenestron housing (fenestron housing) for a crack before the first flight of each day and replacing any cracked ring frame with an airworthy ring frame. Since we issued that EAD, we have determined that a pre-flight pilot check in conjunction with a recurring 25-hour inspection is sufficient for determining the airworthiness of the ring frame. Additionally, ECD has developed a modification that is terminating action for the requirements of that EAD. This superseding AD revises the inspection requirements of the EAD to allow an owner/operator to perform the pre-flight pilot check, adds a recurring inspection of the ring frame, and allows for installation of a ring frame reinforcement as an optional terminating action for the AD requirements. The actions are intended to detect a crack in the ring frame which could result in loss of the fenestron structure and subsequent loss of control of the helicopter.

DATES: This AD becomes effective July 10, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of July 10, 2012.

We must receive comments on this AD by August 24, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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, the economic 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.

For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; phone (817) 222–5110; email: *sharon.y.miles@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA EAD No.: 2008–0190–E, dated October 13, 2008 (EAD 2008–0190–E), to correct an unsafe condition for EC135 and EC635 model helicopters. EASA advises that, during a recent pre-flight check on an EC 135 helicopter, a crack was detected on the ring frame that connects the tail rotor fenestron housing to the rear structure tube (tailboom). EASA states that this condition, if not corrected, could lead to crack propagation remaining undetected, possibly resulting in loss of the fenestron structure and loss of control of the helicopter. EAD 2008–0190–E requires accomplishing a pilot pre-flight check of the rear structure tube for cracks before each first flight of the day; amending the flight manual to reflect the pilot pre-flight check; within 25 flight hours, having the rear structure tube inspected for cracks by a mechanic; and, if any cracks are detected contacting ECD for approved corrective actions.

On October 16, 2008, we issued EAD No. 2008–22–51 (EAD 2008–22–51) for the ECD Model EC135 helicopter. That EAD requires, before further flight and thereafter before the first flight of each day, visually inspecting the ring frame between the tailboom and fenestron housing for a crack, and replacing the ring frame with an airworthy ring frame if there is a crack. That EAD resulted from two reports of cracks on the ring frame connecting the tail rotor fenestron housing to the tailboom. The first crack was discovered in Germany and is discussed in EAD 2008–0190–E. The second crack, which was 9 inches long, was discovered in the U.S. and was in the same area as the first reported crack. We issued EAD 2008–22–51 to detect a crack in the ring frame, which could result in loss of the fenestron structure and subsequent loss of control of the helicopter.

Actions Since Existing EAD Was Issued

Since we issued EAD 2008–22–51, EASA issued AD No.: 2009–0065, dated March 13, 2009 (AD 2009–0065), which supersedes EAD 2008–0190–E. AD 2009–0065 retains the requirements of EAD 2008–0190–E, expands the applicability to EC 135 helicopters manufactured in Spain, and adds a repetitive 100-hour inspection of the rear fuselage structure area for cracks.

EASA next issued AD No.: 2009–0065R1, dated September 8, 2009 (AD 2009–0065R1), which revises AD 2009–0065. EASA advises that ECD has developed a modification (reinforcement) of the aft ring frame, including a part number (P/N) change, for both production and in-service application. Consequently, AD 2009–0065R1 retains the inspection requirements of AD 2009–0065 but limits its applicability to helicopters without the reinforced aft ring frame installed, and allows installation of the reinforced aft ring frame as an optional terminating action for the repetitive checks and inspections.

EASA then issued AD No.: 2010–0254, dated December 20, 2010 (AD 2010–0254), which supersedes AD 2009–0065R1. AD 2010–0254 retains the repetitive inspection requirements of AD 2009–0065R1, but reduces the interval of the visual inspection from 100 hours to 25 hours and requires installation of the reinforced aft ring frame within 12 months as terminating action for the repetitive checks and inspections.

Since we issued EAD 2008–22–51, we have determined that a pre-flight pilot check in conjunction with a recurring 25-hour inspection is sufficient for determining the airworthiness of the ring frame. Therefore, we are issuing this AD to revise the inspection requirements, as well as allow for the optional terminating action developed by ECD.

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, EASA, their 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 EASA and determined the unsafe condition is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

We reviewed ECD Emergency Alert Service Bulletin (ASB) EC135–53A–022, Revision 02, dated November 30, 2010 (ASB EC135–53A–022). ASB EC135–53A–022 describes procedures for a pilot check of the ring frame during the preflight check. ASB EC135–53A–022 additionally prescribes a recurring inspection of the ring frame every 25 flight hours and accomplishment of ECD Service Bulletin EC135–53–023, as corrected November 13, 2009 (SB EC135–53–023), which describes procedures to attach a frame reinforcement to the ring frame. The correction coversheet attached to SB EC135–53–023 is dated November 13, 2009; it describes the correction on page 6 of the service bulletin. All pages of the corrected service bulletin show the original issue date of August 19, 2009; the date has been underlined on page 6 of the corrected service bulletin. Accomplishment of SB EC135–53–023 constitutes terminating action for the visual inspection requirements of ASB EC135–53A–022.

AD Requirements

This AD supersedes EAD 2008–22–51 and requires the following:

- Before further flight, and thereafter at each preflight check, performing a visual check of the ring frame which connects the tail rotor Fenestron housing to the tailboom for a crack. An owner/operator (pilot) may perform this check because it involves only a visual check for a crack in the ring frame and can be performed equally well by a pilot or a mechanic.
- Within 25 hours time-in-service (TIS), and every 25 hours TIS thereafter, removing the tail rotor drive shaft paneling and inspecting the ring frame for a crack.
- As an optional terminating action for the requirements of this AD, installing a frame reinforcement to the ring frame and re-identifying the ring frame by following specified portions of the manufacturer's service bulletin.

Differences Between This AD and the EASA AD

This AD differs from the EASA AD as follows:

• The EASA AD requires amendment of the Flight Manual with a page from ASB EC135–53A–022. Following issuance of the EASA AD, a revision has been published for the Flight Manuals and the amended pages are no longer issued with ASB EC135–53A–022. Therefore, this AD does not require this.

• The EASA AD requires modification of the aft ring frame within 12 months as terminating action; this AD provides it as an optional terminating action.

• The EASA AD applies to the Model EC 635 helicopter, and this AD does not include this model because it does not have an FAA-issued type certificate.

• The EASA AD includes a ''tolerance'' range for accomplishment of the pilot check and visual inspections. This AD does not allow this.

Interim Action

We consider this AD interim action. We are currently considering requiring the installation of the ECD-developed ring frame modification as terminating action for the repetitive inspection requirements of this AD. However, the planned compliance time for the installation of the modification would allow enough time to provide notice and opportunity for prior public comment on the merits of the modification.

Costs of Compliance

We estimate that this AD will affect 226 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Inspecting the ring frame requires .5 work-hour at an average labor rate of $85 per hour, for a cost per inspection cycle of $42.50 per helicopter, and a cost to the fleet of $9,605. Replacing a cracked ring frame will require about 8 work hours at an average labor rate of $85 per hour, and a parts cost of $7,425, for a total cost per helicopter of $8,105. Modifying and re-identifying the ring frame requires 17 work-hours and a parts cost of $1,320, for a total cost per helicopter of $2,765 and the cost to the fleet is $624,890.

According to the manufacturer, they will cover all parts costs for a cracked ring frame, thereby reducing the cost impact on affected persons. However, as we do not control such coverage by the manufacturer, we have included all costs in our cost estimate.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because some of the required checks and inspections must be accomplished before further flight.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in less than 30 days.

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, 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):

2012–11–02 Eurocopter Deutschland GmbH: Amendment 39–17065; Docket No. FAA–2012–0566; Directorate Identifier 2011–SW–008–AD.

(a) Applicability

This AD applies to Model EC135 helicopters with a ring frame, part number (P/N) L535A3501230, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the ring frame connecting the rear structure tube (tailboom) and the tail rotor fenestron housing. This condition could result in loss of the fenestron structure and subsequent loss of control of the helicopter.

(c) Other Affected ADs

This AD supersedes Emergency AD 2008–22–51, dated October 16, 2008.

(d) Effective Date

This AD becomes effective July 10, 2012.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Before further flight, and thereafter at before the first flight of the day, visually check the ring frame that connects the tail rotor fenestron housing to the tailboom for a crack. This action may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)–(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.173, 121.380, or 135.439.

(2) Within 25 hours time-in-service (TIS), and thereafter at intervals not to exceed 25 hours TIS, remove the tail rotor driveshaft paneling and visually inspect the ring frame for a crack.

(3) While performing a check or an inspection as required in paragraph (f)(1) or (f)(2) of this AD, paint cracks around the rivet heads and in the transition area between the tailboom and ring frame or between the ring frame and fenestron housing may be present and do not create an unsafe condition. If you are unable to determine whether a crack is on the paint or on the ring frame, you must remove the paint to do an accurate inspection.

(4) If there is a crack in the ring frame, before further flight, replace it with an airworthy ring frame.

(5) As an optional terminating action for the requirements of this AD, you may install a frame reinforcement to the ring frame and re-identify the ring frame in accordance with the Accomplishment Instructions, paragraph 3.B. of Eurocopter EC135 Service Bulletin EC135–53–023, as corrected on November 13, 2009, except you are not required to contact ECD as noted under paragraphs 3.B.(3) Caution and 3.B.(8).

(g) Special Flight Permits

Special flight permits are prohibited.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Sharon Miles, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; phone (817) 222–5110; email: *sharon.y.miles@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.

(i) Additional Information

(1) Eurocopter Emergency Alert Service Bulletin (ASB) EC135–53A–022, Revision 02, dated November 30, 2010, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency AD No. 2010–0254, dated December 20, 2010.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 5302: Rotorcraft Tailboom.

(k) Material Incorporated by Reference

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

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

(i) Eurocopter EC135 Service Bulletin EC135–53–023, as corrected on November 13, 2009. The correction coversheet attached to this document is dated November 13, 2009; it describes the correction on page 6 of the service bulletin. All pages of the corrected service bulletin show the original issue date of August 19, 2009. On page 6 of the corrected service bulletin the date has been underlined.

(ii) Reserved.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(5) You may also view this service information 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 22, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–15290 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1257; Directorate Identifier 2011–NM–124–AD; Amendment 39–17099; AD 2012–12–19]

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 certain the Boeing Company Model 777–200, –200LR, and –300ER series airplanes. This AD was prompted by a report from the manufacturer indicating that the lowered ceiling support structure of Section 41, in airplanes incorporating the overhead space utilization (OSU) option, was found to be under-strength when subjected to a 9.0 g forward load. This AD requires installing new structural members, tie rod(s), and attach fittings on the left and right sides of the lowered ceiling support structure. We are issuing this AD to prevent the forward lowered ceiling panels and support structure from becoming dislodged during a 9.0 g forward load and consequent injury to personnel or interference with an emergency evacuation.

DATES: This AD is effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 30, 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; 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. 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: Ana Martinez Hueto, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6592; fax: (425) 917–6591; email: *ana.m.hueto@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 November 30, 2011 (76 FR 74012). That NPRM proposed to require installing new structural members in and new tie rod(s) and attach fittings on the left and right sides of the lowered ceiling support structure.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (76 FR 74012, November 30, 2011) and the FAA's response to each comment.

Request to Include Latest Revision of Service Information

United Airlines, Air France, and Boeing requested that we revise the proposed rule (76 FR 74012, November 30, 2011) to reflect the latest revision of the service information in this AD.

We agree. Boeing has issued Boeing Special Attention Service Bulletin 777–25–0482, Revision 1, dated February 21, 2012. This service bulletin was revised due to minor changes to correct hardware and location for its installation. We have changed this final rule to reference Boeing Special Attention Service Bulletin 777–25–0482, Revision 1, dated February 21, 2012, and changed total task hours in the Costs of Compliance section of this AD from 19 hours to 23 hours to account for the revised labor hours. Paragraph (h) of this final rule has also been added to give credit for actions performed before the effective date of this AD using Boeing Special Attention Service Bulletin 777–25–0482, dated February 24, 2011.

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 74012, November 30, 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 74012, November 30, 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 4 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
Install ceiling support structure members, fittings, and tie rods.	23 work-hours × $85 per hour = $1,955	$13,329	$15,284	$61,136

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):

2012–12–19 The Boeing Company: Amendment 39–17099; Docket No. FAA–2011–1257; Directorate Identifier 2011–NM–124–AD.

(a) Effective Date

This AD is effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 777–200, –200LR, and –300ER series airplanes; certificated in any category; as identified in Boeing Special Attention Service Bulletin 777–25–0482, Revision 1, dated February 21, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by a report from the manufacturer indicating that the lowered ceiling support structure of Section 41, in airplanes incorporating the overhead space utilization (OSU) option, were found to be under-strength when subjected to a 9.0 g forward load. We are issuing this AD to prevent the forward lowered ceiling panels and support structure from becoming dislodged during a 9.0 g forward load and consequent injury to personnel or interference with an emergency evacuation.

(f) Compliance

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

(g) Installation of Lowered Ceiling Support Structure

Within 60 months after the effective date of this AD, install new structural members and new tie rod(s) and attach fittings on the left and right sides of the lowered ceiling support structure, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–25–0482, Revision 1, dated February 21, 2012.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 777–25–0482, dated February 24, 2011.

(i) 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.

(j) Related Information

(1) For more information about this AD, contact Ana Martinez Hueto, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6592; fax: 425–917–6591; email: *ana.m.hueto@faa.gov.*

(k) 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 Special Attention Service Bulletin 777–25–0482, Revision 1, dated February 21, 2012.

(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.*

(3) 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.

(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 June 11, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15100 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0265; Directorate Identifier 2010–NM–216–AD; Amendment 39–17098; AD 2012–12–18]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. That AD currently requires revising the Abnormal Procedures and Limitations sections of the Dassault F7X Airplane Flight Manual. This new AD requires a test of the power distribution control units (PDCU) cards and generator control units (GCU) cards to detect faulty components, and if any faulty components are found, replacing any affected PDCU or GCU card. This AD was prompted by a determination that additional actions are necessary to address the identified unsafe condition. We are issuing this AD to detect and correct a leakage failure mode of transient voltage suppression (TVS) diodes used on PDCU cards or GCU cards in the primary power distribution boxes (PPDB), which, in combination with other system failures, could lead to loss of controllability of the airplane.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 30, 2012.

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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 15, 2012 (77 FR 15293), and proposed to supersede AD AD 2010–18–03, Amendment 39–16416 (75 FR 51931, August 24, 2010).

On August 11, 2010, we issued AD 2010–18–03, Amendment 39–16416 (75 FR 51931, August 24, 2010). That AD required actions intended to address an unsafe condition on certain Dassault Aviation Model FALCON 7X airplanes. The preamble of AD 2010–18–03 explains that we consider the requirements of that AD ''interim action'' and are considering further rulemaking to mandate inspection (testing) of the PDCU and GCU cards and replacement of faulty cards, as required by European Aviation Safety Agency AD 2010–0073, dated April 15,

2010. The planned compliance time for those actions would allow enough time for prior public comment on the merits of those actions. This proposed AD follows from that determination.

The unsafe condition is a leakage failure mode of TVS diodes used on PDCU or GCU cards in the PPDB, which, in combination with other system failures, could lead to loss of controllability of the airplane. 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 15293, March 15, 2012) or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect about 9 products of U.S. registry.

The actions that are required by AD 2010–18–03, Amendment 39–16416 (75 FR 51931, August 24, 2010), and retained in this AD take about 4 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 $340 per product.

We estimate that it would take about 4 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $3,060, or $340 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD. 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 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 (75 FR 51931, August 24, 2010), 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 AD 2010–18–03, Amendment 39–16416 (75 FR 51931, August 24, 2010), and adding the following new AD:

2012–12–18 Dassault Aviation: Amendment 39–17098. Docket No. FAA–2012–0265; Directorate Identifier 2010–NM–216–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

This AD supersedes AD 2010–18–03, Amendment 39–16416 (75 FR 51931, August 24, 2010).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers except those on which Dassault Aviation Modification M724 is embodied.

(d) Subject

Air Transport Association (ATA) of America Code 24: Electrical Power.

(e) Reason

This AD was prompted by a determination that additional actions are necessary to address the identified unsafe condition. We are issuing this AD to detect and correct a leakage failure mode of transient voltage suppression (TVS) diodes used on power distribution control units (PDCU) cards or generator control units (GCU) cards in the primary power distribution boxes, which, in combination with other system failures, could lead to loss of controllability 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 Airplane Flight Manual (AFM) Revision

This AFM revision is retained from AD 2010–18–03, Amendment 39–16416 (75 FR 51931, August 24, 2010): Within 30 days after September 8, 2010 (the effective date of AD 2010–18–03, revise the Abnormal Procedures and Limitations sections of the Dassault F7X AFM to include the following statement. This may be done by inserting copies of this AD into the AFM Limitations section and Abnormal Procedures section.

Upon display of ELEC:BUS MISCONFIG TIED in Crew Alerting System (Abnormal procedure 3–190–20), land atnearest suitable airport

Upon display of ELEC:LH ESS PWR LO or ELEC:LH ESS NO PWR (Abnormal procedure 3–190–40), land at nearest suitable airport

Upon display of ELEC:RH ESS PWR LO and ELEC:RH ESS NO PWR (Abnormal procedure 3–190–45), land at nearest suitable airport

Upon display of HYD:BACKUP PUMP HI TEMP (Abnormal procedure 3–250–15), set off the pump and if the backup pump is still rotating (green) in hydraulic synoptic, descend to a safe altitude or below 15,000 ft

Caution: These temporary amendments take precedence over the same procedures displayed through the Electronic Check List (ECL) in the aeroplane.

Note 1 to paragraph (g) of this AD: When a statement identical to that in paragraph (g) of this AD has been included in the Limitations section and Abnormal Procedures section in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed.

(h) New Requirements of This AD: Test the PDCU and GCU Cards

For airplanes identified in Dassault Mandatory Service Bulletin 7X–133, dated December 4, 2009: Within 9 months after the effective date of this AD, perform a test of the PDCU and GCU cards to detect faulty components, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin 7X–133, dated December 4, 2009. If any faulty components are found, before further flight, replace any affected PDCU or GCU card, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin 7X–133, dated December 4, 2009.

(i) Optional Method of Compliance

For airplanes identified in Dassault Mandatory Service Bulletin 7X–133, dated December 4, 2009: Accomplishing the actions specified in paragraph (h) of this AD, within 9 months after the effective date of this AD, in accordance with the service information specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, is acceptable for compliance with the actions specified in paragraph (h) of this AD.

(1) Goodrich Service Bulletin 80232190–24–01, dated August 13, 2009.

(2) Goodrich Service Bulletin 80232191–24–01, dated August 13, 2009.

(3) Goodrich Service Bulletin 80232192–24–01, dated August 13, 2009.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2010–0073, dated April 15, 2010, and the service bulletins specified in paragraphs (k)(1) through (k)(4) of this AD, for related information.

(1) Dassault Mandatory Service Bulletin 7X–133, dated December 4, 2009.

(2) Goodrich Service Bulletin 80232190–24–01, dated August 13, 2009.

(3) Goodrich Service Bulletin 80232191–24–01, dated August 13, 2009.

(4) Goodrich Service Bulletin 80232192–24–01, dated August 13, 2009.

(l) 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.

(i) Dassault Mandatory Service Bulletin 7X–133, dated December 4, 2009.

(3) If you accomplish the optional actions specified by this AD, you must use the following service information to perform those actions, unless the AD specifies otherwise.

(i) Goodrich Service Bulletin 80232190–24–01, dated August 13, 2009.

(ii) Goodrich Service Bulletin 80232191–24–01, dated August 13, 2009.

(iii) Goodrich Service Bulletin 80232192–24–01, dated August 13, 2009.

(4) For Dassault service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* For Goodrich service information identified in this AD, contact Goodrich Corporation, Power Systems, 1555 Corporate Woods Parkway, Uniontown, Ohio 44685–8799; telephone 330–487–2007; fax 330–487–1902; email *twinsburg.techpubs@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

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

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

Issued in Renton, Washington, on June 11, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15066 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0152; Directorate Identifier 2011–NM–059–AD; Amendment 39–17092; AD 2012–12–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A330–200 series airplanes; Airbus Model A330–200 Freighter series airplanes; Airbus Model A330–300 series airplanes; Airbus Model A340–200 series airplanes; and Airbus Model A340–300 series airplanes. This AD was prompted by reports of sheared fasteners located on the outside skin of the forward cargo door and cracks on the frame fork ends, as well as cracks of the aft cargo door frame 64A. This AD requires performing a detailed inspection of the outer skin rivets at the frame fork ends of the forward and aft cargo door for sheared, loose, and missing rivets; repairing the outer skin rivets, if necessary; and performing repetitive inspections. We are issuing this AD to detect and correct sheared, loose, or missing fasteners on the forward and aft cargo door frame, which could result in the loss of structural integrity of the forward and aft cargo door.

DATES: This AD becomes effective July 30, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 30, 2012.

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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 23, 2012 (77 FR 10691). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Two operators have reported cases of some sheared fasteners on the outside skin of the forward cargo door, detected during walk around checks. Further inspections revealed crack findings on the frame (FR) fork ends.
>
> In addition, during a scheduled maintenance check, the aft cargo door frame 64A of an aeroplane has been found cracked for a length of more than 3 inches. Outer skin rivets were also found sheared. At time of findings the aeroplane had accumulated 10564 flight cycles (FC), i.e. below the 12000 FC threshold defined in DGAC [Direction Générale de l'Aviation Civile] France AD F–2001–124(B) and DGAC France AD F–2001–126(B) [which corresponds with FAA AD 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001], which require a special detailed inspection of the aft cargo compartment door.
>
> In case of cracked or ruptured (forward or aft) cargo door frame, the loads will be transferred to the remaining structural elements. Such second load path is able to sustain the loads for a limited number of flight cycles only. Rupture of two vertical frames could result in the loss of the structural integrity of the forward or aft cargo door.
>
> For the above described reasons, this [EASA] AD requires repetitive detailed visual inspections of the aft and forward cargo doors outer skin for sheared, loose or missing rivets at all frame fork ends and the accomplishment of the applicable corrective actions [repair if necessary].
>
> This [EASA] AD is considered to be an interim action, further actions might be required to revise/supersede the above mentioned DGAC France ADs.
>
> This [EASA] AD is revised in order to recognize that aeroplanes on which Airbus modification 44852 has been embodied in production are not affected by the repetitive inspection requirements of this [EASA] AD on the Aft Cargo Compartment Door.

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 10691, February 23, 2012) or on the determination of the cost to the public.

Conclusion

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

Clarification of the Repetitive Inspections

For clarification purposes, we changed the interval for the repetitive inspections in paragraph (g) of this AD to the following: ''* * * at intervals not to exceed 800 flight cycles.'' The repetitive interval was stated incorrectly in the NPRM (77 FR 10691, February 23, 2012) as 800 ''total'' flight cycles.

Costs of Compliance

We estimate that this AD will affect 55 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the 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 $4,675, or $85 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

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 10691, February 23, 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 adding the following new AD:

2012–12–12 Airbus: Amendment 39–17092. Docket No. FAA–2012–0152; Directorate Identifier 2011–NM–059–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F,

–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, and –313 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 52: Doors.

(e) Reason

This AD was prompted by reports of sheared fasteners located on the outside skin of the forward cargo door and cracks on the frame fork ends, as well as cracks of the aft cargo door frame 64A. We are issuing this AD to detect and correct sheared, loose or missing fasteners on the forward and aft cargo door frame, which could result in the loss of structural integrity of the forward and aft cargo door.

(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) Forward Cargo Compartment Door

Before the accumulation of 6,000 total flight cycles since first flight of the airplane or within 400 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection of the outer skin rivets at the frame fork ends between FR20B and FR25 of the forward cargo door for sheared, loose, and missing rivets, in accordance with the instructions of Airbus All Operators Telex (AOT) A330–52A3085, dated December 20, 2010 (for Model A330–200 and A330–300 series airplanes); or Airbus AOT A340–52A4092, dated December 20, 2010 (for Model A340–200 and A340–300 series airplanes). Thereafter repeat the inspection at intervals not to exceed 800 flight cycles.

(h) Aft Cargo Compartment Door

For all airplanes, except those on which Airbus Modification 44854 or Modification 44852 has been embodied in production, or Airbus Service Bulletin A330–52–3044 or Airbus Service Bulletin A340–52–4054 has been embodied in service: Before the accumulation of 4,000 total flight cycles since first flight of the airplane, or within 400 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed inspection of outer skin rivets at the frame fork ends between FR60 and FR64A of the aft cargo door for sheared, loose or missing rivets, in accordance with the instructions of Airbus AOT A330–52A3084, dated December 20, 2010 (for Model A330–200 and A330–300 series airplanes); or Airbus AOT A340–52A4091, dated December 20, 2010 (for Model A340–200 and A340–300 series airplanes). Thereafter repeat the inspection at intervals not to exceed 400 flight cycles.

(i) Corrective Action

If any sheared, loose, or missing rivets are found during any inspection required by paragraph (g) or (h) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, FAA; or European Aviation Safety Agency (EASA) (or its delegated agent).

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0007R1, dated February 14, 2011, and the service information specified in paragraphs (k)(1) through (k)(4) of this AD, for related information.

(1) Airbus AOT A330–52A3085, dated December 20, 2010.

(2) Airbus AOT A340–52A4092, dated December 20, 2010.

(3) Airbus AOT A330–52A3084, dated December 20, 2010.

(4) Airbus AOT A340–52A4091, dated December 20, 2010.

(l) 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, as applicable, unless the AD specifies otherwise.

(i) Airbus AOT A330–52A3085, dated December 20, 2010. The document number and date are identified only on the first page of this document.

(ii) Airbus AOT A340–52A4092, dated December 20, 2010. The document number and date are identified only on the first page of this document.

(iii) Airbus AOT A330–52A3084, dated December 20, 2010. The document number and date are identified only on the first page of this document.

(iv) Airbus AOT A340–52A4091, dated December 20, 2010. The document number and date are identified only on the first page of this document.

(3) For Airbus service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(4) 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.

(5) 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 June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14730 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30847; Amdt. No. 3483]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 25, 2012. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 25, 2012.

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

For Examination—

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

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

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

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

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

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

The Rule

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

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

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

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on June 8, 2012.

John Duncan,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

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

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

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
26–Jul–12	IA	Des Moines	Des Moines Intl	2/6965	5/8/12	ILS OR LOC RWY 31, Amdt 23

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject

[FR Doc. 2012–14863 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30846; Amdt. No. 3482]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 25, 2012. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 25, 2012.

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

For Examination—

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

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

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

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

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

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This

amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

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

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

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule '' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979) ; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on June 8, 2012.

John Duncan,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

*** * * Effective July 26, 2012**

Sand Point, AK, Sand Point, RAYMD (RNAV) ONE Graphic DP
Sand Point, AK, Sand Point, Takeoff Minimums and Obstacle DP, Amdt 3
Dothan, AL, Dothan Rgnl, ILS OR LOC RWY 14, Amdt 1
Dothan, AL, Dothan Rgnl, ILS OR LOC RWY 32, Amdt 9
Dothan, AL, Dothan Rgnl, RNAV (GPS) RWY 14, Amdt 2
Dothan, AL, Dothan Rgnl, RNAV (GPS) RWY 18, Amdt 2
Dothan, AL, Dothan Rgnl, RNAV (GPS) RWY 32, Amdt 1
Dothan, AL, Dothan Rgnl, RNAV (GPS) RWY 36, Amdt 1
Dothan, AL, Dothan Rgnl, VOR OR TACAN–A, Amdt 13
Mobile, AL, Mobile Rgnl, ILS OR LOC RWY 14, Amdt 31
Mobile, AL, Mobile Rgnl, ILS OR LOC RWY 32, Amdt 7
Mobile, AL, Mobile Rgnl, NDB RWY 14, Amdt 3
Mobile, AL, Mobile Rgnl, RADAR–1, Amdt 5
Mobile, AL, Mobile Rgnl, RNAV (GPS) RWY 14, Amdt 2
Mobile, AL, Mobile Rgnl, RNAV (GPS) RWY 18, Amdt 1
Mobile, AL, Mobile Rgnl, RNAV (GPS) RWY 32, Amdt 2
Mobile, AL, Mobile Rgnl, RNAV (GPS) RWY 36, Amdt 1
Paragould, AR, Kirk Field, NDB RWY 22, Amdt 1A, CANCELED
Douglas Bisbee, AZ, Bisbee Douglas Intl, RNAV (GPS) RWY 17, Orig
Douglas Bisbee, AZ, Bisbee Douglas Intl, VOR RWY 17, Amdt 3
Douglas Bisbee, AZ, Bisbee Douglas Intl, VOR/DME RWY 17, Amdt 6
Fort Huachuca Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, ILS OR LOC RWY 26, Amdt 4
Fort Huachuca Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, VOR RWY 26, Amdt 5
Willcox, AZ, Cochise County, RNAV (GPS) RWY 3, Amdt 1
Willcox, AZ, Cochise County, RNAV (GPS) RWY 21, Amdt 1
Little River, CA, Little River, RNAV (GPS) RWY 29, Amdt 1
Santa Maria, CA, Santa Maria Pub/Capt G Allan Hancock Fld, ILS OR LOC RWY 12, Amdt 10
Van Nuys, CA, Van Nuys, Takeoff Minimums and Obstacle DP, Amdt 5
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 1C, Orig-E
Washington, DC, Washington Dulles Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Orlando, FL, Orlando Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Wauchula, FL, Wauchula Muni, RNAV (GPS) RWY 18, Amdt 1
Wauchula, FL, Wauchula Muni, RNAV (GPS) RWY 36, Amdt 1
Clinton, IA, Clinton Muni, RNAV (GPS) RWY 14, Amdt 1
Clinton, IA, Clinton Muni, RNAV (GPS) RWY 21, Amdt 1
Cairo, IL, Cairo Rgnl, Takeoff Minimums and Obstacle DP, Orig
Moline, IL, Quad City Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Pittsfield, IL, Pittsfield Penstone Muni, Takeoff Minimums and Obstacle DP, Orig
Washington, KS, Washington County Memorial, NDB–A, Amdt 1, CANCELED
Louisville, KY, Louisville Intl-Standiford Field, Takeoff Minimums and Obstacle DP, Amdt 5
Paducah, KY, Barkley Rgnl, VOR/DME RWY 22, Amdt 6
Portland, ME, Portland Intl Jetport, Takeoff Minimums and Obstacle DP, Amdt 6
Eldon, MO, Eldon Model Airpark, RNAV (GPS) RWY 18, Orig
Eldon, MO, Eldon Model Airpark, RNAV (GPS) RWY 36, Orig
Eldon, MO, Eldon Model Airpark, Takeoff Minimums and Obstacle DP, Orig
Starkville, MS, George M Bryan, LOC/DME RWY 36, Amdt 1
Starkville, MS, George M Bryan, NDB–C, Admt 3, CANCELED

Starkville, MS, George M Bryan, RNAV (GPS) RWY 18, Amdt 2
Starkville, MS, George M Bryan, RNAV (GPS) RWY 36, Amdt 3
Newark, NJ, Newark Liberty Intl, RNAV (RNP) Y RWY 29, Amdt 1
Buffalo, NY, Buffalo Niagara Intl, ILS OR LOC RWY 5, Amdt 15
Buffalo, NY, Buffalo Niagara Intl, ILS OR LOC RWY 23, Amdt 30
Buffalo, NY, Buffalo Niagara Intl, ILS OR LOC/DME RWY 32, Amdt 1
Buffalo, NY, Buffalo Niagara Intl, RNAV (GPS) RWY 5, Amdt 2
Buffalo, NY, Buffalo Niagara Intl, RNAV (GPS) RWY 14 Amdt 1
Buffalo, NY, Buffalo Niagara Intl, RNAV (GPS) RWY 23, Amdt 2
Buffalo, NY, Buffalo Niagara Intl, RNAV (GPS) RWY 32, Amdt 2
Buffalo, NY, Buffalo Niagara Intl, Takeoff Minimums and Obstacle DP, Amdt 6
Cleveland, OH, Cleveland-Hopkins Intl, CONVERGING ILS RWY 24R, Amdt 1, CANCELLED
Cleveland, OH, Cleveland-Hopkins Intl, CONVERGING ILS RWY 28, Orig-B, CANCELED
Cleveland, OH, Cleveland-Hopkins Intl, ILS OR LOC RWY 28, Amdt 24A
Wapakoneta, OH, Neil Armstrong, VOR–A, Amdt 8
Towanda, PA, Bradford County, RNAV (GPS)–A, Orig
Towanda, PA, Bradford County, Takeoff Minimums and Obstacle DP, Amdt 2
Myrtle Beach, SC, Myrtle Beach Intl, ILS OR LOC RWY 18, Amdt 3
Myrtle Beach, SC, Myrtle Beach Intl, ILS OR LOC RWY 36, Amdt 3
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 18, Amdt 3
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 36, Amdt 3
Myrtle Beach, SC, Myrtle Beach Intl, VOR/DME–A, Amdt 2
Winnsboro, SC, Fairfield County, NDB RWY 4, Amdt 4
Winnsboro, SC, Fairfield County, RNAV (GPS) RWY 4, Amdt 1
Winnsboro, SC, Fairfield County, RNAV (GPS) RWY 22, Amdt 1
Brenham, TX, Brenham Muni, RNAV (GPS) RWY 16, Amdt 2
Brenham, TX, Brenham Muni, RNAV (GPS) RWY 34, Amdt 2
Coleman, TX, Coleman Muni, GPS RWY 15, Orig-A, CANCELLED
Coleman, TX, Coleman Muni, RNAV (GPS) RWY 15, Orig
Eagle Lake, TX, Eagle Lake, RNAV (GPS) RWY 17, Amdt 1
Eagle Lake, TX, Eagle Lake, RNAV (GPS) RWY 35, Amdt 1
La Grange, TX, Fayette Rgnl Air Center, RNAV (GPS) RWY 16, Amdt 2
La Grange, TX, Fayette Rgnl Air Center, RNAV (GPS) RWY 34, Amdt 2
LA Porte, TX, La Porte Muni, RNAV (GPS) RWY 30, Amdt 2
Lubbock, TX, Lubbock Preston Smith Intl, RNAV (GPS) RWY 8, Amdt 2
Lubbock, TX, Lubbock Preston Smith Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Lubbock, TX, Lubbock Preston Smith Intl, VOR/DME OR TACAN RWY 26, Amdt 11
Marion/Wytheville, VA, Mountain Empire, Takeoff Minimums and Obstacle DP, Amdt 2
Bellingham, WA, Bellingham Intl, ILS OR LOC RWY 16, ILS RWY 16 (SA CAT I), Amdt 6
Bellingham, WA, Bellingham Intl, RNAV (GPS) Y RWY 16, Amdt 2
Bellingham, WA, Bellingham Intl, RNAV (GPS) Y RWY 34, Amdt 1
Bellingham, WA, Bellingham Intl, RNAV (RNP) Z RWY 16, Orig
Bellingham, WA, Bellingham Intl, RNAV (RNP) Z RWY 34, Orig
Chehalis, WA, Chehalis-Centralia, RNAV (GPS) RWY 16, Amdt 1
Chehalis, WA, Chehalis-Centralia, Takeoff Minimums and Obstacle DP, Amdt 1
Eastsound, WA, Orcas Island, Takeoff Minimums and Obstacle DP, Amdt 2
Friday Harbor, WA, Friday Harbor, RNAV (GPS) RWY 34, Amdt 2
Yakima, WA, Yakima Air Terminal/McAllister Field, ZILLA THREE Graphic DP
Prairie Du Chien, WI, Prairie Du Chien Muni, Takeoff Minimums and Obstacle DP, Amdt 4
Tomahawk, WI, Tomahawk Rgnl, RNAV (GPS) RWY 9, Amdt 2A

[FR Doc. 2012–14866 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 38

RIN 3038–0092, –0094

Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management; Core Principles and Other Requirements for Designated Contract Markets; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; Correction.

SUMMARY: This document corrects incorrect text published in the **Federal Register** of April 9, 2012, and June 19, 2012, regarding Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management, and Core Principles and Other Requirements for Designated Contract Markets.

DATES: The corrections to FR Doc. 2012–7477 are effective October 1, 2012. The corrections to FR Doc. 2012–12746 are effective August 20, 2012.

FOR FURTHER INFORMATION CONTACT: John C. Lawton, Deputy Director, 202–418–5480, *jlawton@cftc.gov,* and Christopher A. Hower, Attorney-Advisor, 202–418–6703, *chower@cftc.gov,* Division of Clearing and Risk, and Camden Nunery, Economist, 202–418–5723, Office of the Chief Economist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; and Hugh J. Rooney, Assistant Director, 312–596–0574, *hrooney@cftc.gov,* Division of Clearing and Risk, Commodity Futures Trading Commission, 525 West Monroe Street, Chicago, Illinois 60661.

SUPPLEMENTARY INFORMATION: In FR Doc. 2012–7477 appearing on page 21278 in the **Federal Register** issue of Monday, April 9, 2012, the following corrections are made:

■ 1. On page 21309, in the left column, amendatory instruction 16 is removed.

■ 2. On page 21309, in the middle column, amendatory instruction 17 and subpart L (consisting of §§ 38.600 through 38.606) are removed.

■ 3. On page 21309, in the middle column, amendatory instructions 18 and 19 are redesignated as amendatory instructions 16 and 17.

In FR Doc. 2012–12746 appearing on page 36612 in the **Federal Register** issue of Tuesday, June 19, 2012, the following correction is made:

■ 4. On page 36705, in the left column, add paragraph (b) to read as follows:

§ 38.601 Mandatory clearing.

* * * * *

(b) A designated contract market must coordinate with each derivatives clearing organization to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of this chapter.

Dated: June 8, 2012.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2012–14655 Filed 6–22–12; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 206

Rules for Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, Trade Diversion, and Review of Relief Actions

AGENCY: United States International Trade Commission.

ACTION: Final rule.

SUMMARY: The United States International Trade Commission (Commission) is adopting as a final rule, with changes to correct three typographical errors, the interim rule amending its Rules of Practice and Procedure (Rules) that was published on January 26, 2012. The rule concerns the conduct of safeguard investigations under statutory provisions that implement bilateral safeguard provisions in free trade agreements that the United States has negotiated with Australia, Bahrain, Chile, Colombia, the Dominican Republic and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), Jordan, Korea, Morocco, Oman, Panama, Peru, and Singapore. With the exception of the free trade agreement with Panama, all of the aforementioned free trade agreements have entered into force. The free trade agreement with Panama is expected to enter into force imminently. The interim rule amended and expanded upon rules previously in effect that pertained to the conduct of bilateral safeguard investigations under the North American Free Trade Agreement (NAFTA) Implementation Act with respect to imports from Canada and Mexico.

DATES: *Effective date:* June 25, 2012.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary, telephone (202) 205–2000, or William Gearhart, Esquire, Office of the General Counsel, United States International Trade Commission, telephone (202) 205–3091. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site at *http://www.usitc.gov.*

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding these amendments to the Commission's Rules. This preamble provides background information and a regulatory analysis of the amendments.

These amendments are being promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 553) (APA), and will be codified in 19 CFR part 206.

Background

Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures, rules and regulations as it deems necessary to carry out its functions and duties. The Commission is adopting as a final rule, with three changes to correct typographical errors, the interim rule published in the **Federal Register** on January 26, 2012 (77 FR 3922) governing investigations relating to global and bilateral safeguard actions, market disruption, trade diversion, and review of relief actions (part 206 of its Rules). The final rule principally concerns subpart D of part 206, Investigations Relating to Bilateral Safeguard Actions, but also includes several technical and conforming changes to the general rules in subpart A of part 206. Prior to publication of the interim rule, the rules in subpart D applied only to Commission investigations under the bilateral safeguard provision in the NAFTA Implementation Act with respect to imports from Canada and Mexico. The Commission adopted the interim rule in response to legislation enacted by Congress in recent years that implements bilateral safeguard provisions in several additional free trade agreements (FTAs), including legislation approved on October 21, 2011, that implements FTAs with Colombia, Korea, and Panama. The implementing legislation for each of those FTAs directs the Commission, upon receipt of a petition, to conduct an investigation and determine whether, as a result of the reduction or elimination of a duty under the agreement, an article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of such article constitute a substantial cause of serious injury or the threat thereof to the domestic industry producing an article that is like or directly competitive with the imported article. If the Commission makes an affirmative determination, it must recommend a remedy to the President; the President makes the final decision on remedy.

More specifically, in addition to the NAFTA Implementation Act, the Commission is required to conduct bilateral safeguard investigations and make determinations under section 311(b) of the United States-Australia Free Trade Agreement Implementation Act, section 311(b) of the United States-Bahrain Free Trade Agreement Implementation Act, section 311(b) of the United States-Chile Free Trade Agreement Implementation Act, section 311(b) of the United States-Colombia Trade Promotion Agreement Implementation Act, section 311(b) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, section 211(b) of the United States-Jordan Free Trade Area Implementation Act, section 311(b) of the United States-Korea Free Trade Agreement Implementation Act, section 311(b) of the United States-Morocco Free Trade Agreement Implementation Act, section 311(b) of the United States-Oman Free Trade Agreement Implementation Act, section 311(b) of the United States-Panama Trade Promotion Agreement Implementation Act, section 311(b) of the United States-Peru Trade Promotion Agreement Implementation Act, and section 311(b) of the United States-Singapore Free Trade Agreement Implementation Act. For U.S. Code citations to the respective implementation acts, see the text of interim rule section 206.31 published in the **Federal Register** on January 26, 2012 (77 FR 3922).

These amendments expand upon previous rules in Subpart D of Part 206 that provide for investigations and determinations under the NAFTA Implementation Act. Each of the statutory provisions listed above contains requirements that are similar both substantively and procedurally to the provision in the NAFTA Implementation Act. These amended rules identify the types of entities that may file a petition, describe the information that must be included in a petition, indicate the time for Commission determinations and reporting, and establish procedures for the limited disclosure of confidential business information under administrative protective order in those instances in which the Commission is authorized to make such disclosure.

In its notice of the interim rule published in the **Federal Register** on January 26, 2012, the Commission invited interested parties to submit written comments and asked that they be received within 60 days of publication in the notice in the **Federal Register**. The Commission received one written comment from the Embassy of the Republic of Korea (Korea), Washington, DC, on February 13, 2012. In its written comment, Korea stated

that, in the case of the bilateral safeguard provision in the FTA with Korea, the interim rule either did not properly incorporate or did not fully elaborate on (1) The obligation to notify the other Party in writing and consult on the initiation of an investigation within 30 days after it applies a safeguard measure; (2) the obligation to give interested parties a period of at least 20 days to submit comments after the publication of the notice; and (3) the obligation not to apply a provisional measure until at least 45 days after the initiation of investigation. In a footnote, Korea stated that the obligation to notify in writing and consult on the initiation of an investigation is usually fulfilled by the Executive Branch of the U.S. Government.

The Commission carefully reviewed the written comment of Korea and in so doing considered whether it should make any changes to the rule to address the concerns raised by Korea. Based on that review, the Commission concluded that no change is necessary and that the interim rule should be adopted as a final rule without change (other than to correct typographical errors). The Commission considered each of the concerns raised by Korea. With respect to the obligation to notify and consult, the Commission notes, and Korea appears to agree, that obligations to notify and consult under the FTAs are generally fulfilled by executive branch agencies other than the Commission, which is an independent agency. In the Commission's view it would be inappropriate for the Commission to issue a rule that states how or when another executive branch agency should notify and/or consult with Korea in a bilateral safeguard matter.

With respect to the obligation to provide interested parties with a period of at least 20 days to submit comments after publication of the notice, the Commission is of the view that this obligation can be readily satisfied within the statutory time period for making an injury determination and is more properly addressed in the notice announcing institution of the investigation. The U.S. implementing statute provides that the Commission must make its injury determination within 120 days (180 days if critical circumstances are alleged) after the date on which the investigation is initiated.

With respect to the obligation not to apply a provisional measure until at least 45 days after initiation of an investigation, the Commission notes that decisions regarding whether and when to apply a provisional measure are made by the President, not the Commission. Accordingly, in the Commission's view it would be inappropriate for the Commission to promulgate a rule that addresses the period in time at which the President might apply a measure. Moreover, the Commission notes that when critical circumstances are alleged in a petition, U.S. legislation gives the Commission more than 45 days (up to 60 days from the day on which a request for provisional relief is filed) to make and transmit a determination and provisional relief recommendation to the President. When the request involves a perishable agricultural product, U.S. legislation allows the Commission to conduct an expedited investigation and recommend provisional relief with respect to a perishable agricultural product only if the Commission has, for at least 90 days prior to receipt of the petition containing the request, monitored and investigated imports of the product concerned under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). The Commission conducts such monitoring investigations at the request of the U.S. Trade Representative.

The three typographical errors are in sections 206.1 and 206.32 of the rule. The first two errors are in section 206.1, which is amended to add the word ''sections'' before the list of statutory sections cited, and to substitute the symbol ''§ '' for the word ''section'' so as to refer to ''§ 206.31'' of the rule to conform with standard rule writing format. The third error corrected is in section 206.32(a), which concerns the definition of ''substantial cause,'' to add the word ''in'' before the word ''section.''

Regulatory Analysis

The Commission has determined that this action adopting a final rule does not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993) and thus does not constitute a significant regulatory action for purposes of the Executive Order.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is inapplicable to this rulemaking because it is not one for which a notice of final rulemaking is required under 5 U.S.C. 553(b) or any other statute.

This final rule does not contain federalism implications warranting the preparation of a federalism summary impact statement pursuant to Executive Order 13132 (64 FR 43255, August 4, 1999).

No actions are necessary under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) because this final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

The final rule is not a major rule as defined by section 804 of the Congressional Review Act (5 U.S.C. 801 *et seq.*). Moreover, it is exempt from the reporting requirements of that Act because it contains rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The amendments are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), since they do not contain any new information collection requirements.

List of Subjects in 19 CFR Part 206

Administrative practice and procedure, Australia, Bahrain, Business and industry, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Imports, Investigations, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Singapore, Trade agreements.

Accordingly, the interim rule amending 19 CFR part 206 which was published at 77 FR 3922 on January 26, 2012, is adopted as a final rule with the following changes:

PART 206—INVESTIGATIONS RELATING TO GLOBAL AND BILATERAL SAFEGUARG ACTIONS, MARKET DISRUPTION, TRADE DIVERSION, AND REVIEW OF RELIEF ACTIONS

■ 1. The authority citation for part 206 continues to read as follows:

Authority: 19 U.S.C. 1335, 2112 note, 2251–2254, 2436, 2451–2451a, 3351–3382, 3805 note, 4051–4065, and 4101.

■ 2. Revise § 206.1 to read as follows:

§ 206.1 Applicability of part.

Part 206 applies to proceedings of the Commission under sections 201–202, 204, 406, and 421–422 of the Trade Act of 1974, as amended (2251–2252, 2254, 2436, 2451–2451a), sections 301–317 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3351–3382) (hereinafter NAFTA Implementation Act), and the statutory provisions listed in § 206.31 of this part 206 that implement bilateral safeguard provisions in other free trade agreements into which the United States has entered.

■ 3. Amend § 206.32 by revising paragraph (a) to read as follows:

§ 206.32 Definitions applicable to subpart D.

* * * * *

(a) The term *substantial cause* has the same meaning as in section 202(b)(1)(B) of the Trade Act.

* * * * *

Issued: June 18, 2012.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2012–15346 Filed 6–22–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9596]

RIN 1545–BK39

Disregarded Entities and the Indoor Tanning Services Excise Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to disregarded entities (including qualified subchapter S subsidiaries) and the indoor tanning services excise tax. These regulations affect disregarded entities responsible for collecting the indoor tanning services excise tax and owners of those disregarded entities. The text of these temporary regulations serves as the text of proposed regulations (REG–125570–11) published in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on June 25, 2012.

Applicability Date: For dates of applicability, see §§ 1.1361–4T(a)(8)(iii)(B) and 301.7701–2T(e)(9)(i).

FOR FURTHER INFORMATION CONTACT: Michael H. Beker, (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 1361 of the Internal Revenue Code (Code) and the Procedure and Administration Regulations (26 CFR part 301) under section 7701 of the Code.

Since January 1, 2008, §§ 1.1361–4(a)(8) and 301.7701–2(c)(2)(v) have treated a qualified subchapter S subsidiary (QSub) and a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2 (collectively, a disregarded entity) as a separate entity for purposes of excise taxes imposed by Chapters 31, 32 (other than section 4181), 33, 34, 35, 36 (other than section 4461), and 38 of the Code, and any floor stocks tax imposed on articles subject to any of these taxes.

Effective July 1, 2010, section 10907 of the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)), added new Chapter 49 to the Code, which imposes an excise tax on amounts paid for indoor tanning services under section 5000B.

Consistent with existing §§ 1.1361–4(a)(8) and 301.7701–2(c)(2)(v), these temporary regulations add Chapter 49 to the list of excise taxes for which disregarded entities are treated as separate entities. Accordingly, effective for taxes imposed on amounts paid on or after July 1, 2012, these temporary regulations treat a disregarded entity as a separate entity for purposes of the indoor tanning services excise tax under section 5000B. These temporary regulations also treat a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2 as a corporation with respect to the indoor tanning services excise tax.

The indoor tanning services excise tax is reported on Form 720 ''Quarterly Federal Excise Tax Return''. As a result of these temporary regulations, a Form 720 reporting indoor tanning services excise taxes imposed on amounts paid on or after July 1, 2012, must be filed under the name and employer identification number (EIN) of the entity rather than under the name and EIN of the disregarded entity's owner. Thus, this rule affects returns of this tax that are due on or after October 31, 2012.

For taxes imposed under section 5000B on amounts paid before July 1, 2012, the IRS will treat payments made by a disregarded entity, or other actions taken by a disregarded entity, with respect to the indoor tanning services excise tax as having been made or taken by the owner of that entity. Thus, for such periods, the owner of a disregarded entity will be treated as satisfying its obligations with respect to the indoor tanning services excise tax if those obligations are satisfied either: (i) By the owner itself or (ii) by the disregarded entity on behalf of the owner.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Michael H. Beker, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAX

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

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

■ **Par. 2.** Section 1.1361–4 is amended by adding paragraph (a)(8)(iii) to read as follows:

§ 1.1361–4 Effect of QSub election.

(a) * * *

(8) * * *

(iii) [Reserved]. For further guidance, see § 1.1361–4T(a)(8)(iii).

* * * * *

■ **Par. 3.** Section 1.1361–4T is added to read as follows:

§ 1.1361–4T Effect of QSub election (temporary).

(a)(1) through (a)(8)(ii) [Reserved]. For further guidance, see § 1.1361–4(a)(1) through (a)(8)(ii).

(iii) *Rule for Chapter 49 tax liabilities*—(A) *In general.* A qualified subchapter S subsidiary (QSub) is treated as a separate corporation for purposes of—

(*1*) Federal tax liabilities imposed by Chapter 49 of the Internal Revenue Code;

(*2*) Collection of tax imposed by Chapter 49 of the Internal Revenue Code; and

(*3*) Claims of a credit or refund related to the tax imposed by Chapter 49 of the Internal Revenue Code.

(B) *Effective/applicability date for Chapter 49 liabilities.* Paragraph (a)(8)(iii)(A) of this section applies to taxes imposed on amounts paid on or after July 1, 2012.

(C) *Expiration date.* The applicability of paragraph (a)(8)(iii) of this section expires on June 22, 2015 or such earlier date as may be determined under amendments to the regulations issued after June 22, 2012.

(a)(9) through (d) [Reserved]. For further guidance, see § 1.1361–4(a)(9) through (d).

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 4.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 5.** Section 301.7701–2 is amended by adding new paragraphs (c)(2)(vi) and (e)(9), and adding and reserving paragraph (e)(8), to read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(c) * * *

(2) * * *

(vi) [Reserved]. For further guidance, see § 301.7701–2T(c)(2)(vi).

* * * * *

(e) * * *

(8) [Reserved]

(9) [Reserved]. For further guidance, see § 301.7701–2T(e)(9).

■ **Par. 6.** Section 301.7701–2T is amended as follows:

1. Paragraphs (a) through (e)(4) are revised.

2. Paragraph (e)(9) is added.

The revisions and addition read as follows:

§ 301.7701–2T Business entities; definitions (temporary).

(a) through (c)(2)(v) [Reserved]. For further guidance, see § 301.7701–2(a) through (c)(2)(v).

(vi) *Tax liabilities with respect to the indoor tanning services excise tax*—(A) *In general.* Notwithstanding any other provision of § 301.7701–2, § 301.7701–2(c)(2)(i) (relating to certain wholly owned entities) does not apply for purposes of—

(*1*) Federal tax liabilities imposed by Chapter 49 of the Internal Revenue Code;

(*2*) Collection of tax imposed by Chapter 49 of the Internal Revenue Code; and

(*3*) Claims of a credit or refund related to the tax imposed by Chapter 49 of the Internal Revenue Code.

(B) *Treatment of entity.* An entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2 is treated as a corporation with respect to items described in paragraph (c)(2)(vi)(A) of this section.

(d) through (e)(4) [Reserved]. For further guidance, see § 301.7701–2(d) through (e)(4).

* * * * *

(9) *Indoor tanning services excise tax*—(i) *Effective/applicability date.* Paragraph (c)(2)(vi) of this section applies to taxes imposed on amounts paid on or after July 1, 2012.

(ii) *Expiration date.* The applicability of paragraph (c)(2)(vi) of this section expires on or before June 22, 2015 or such earlier date as may be determined under amendments to the regulations issued after June 22, 2012.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: June 11, 2012.

Emily S. McMahon,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2012–15422 Filed 6–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0572]

Regattas and Marine Parades; Great Lakes Annual Marine Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various special local regulations for annual regattas and marine parades in the Captain of the Port Detroit zone from 9 a.m. on June 22, 2012 through 6 p.m. on July 29, 2012. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after regattas or marine parades. Enforcement of these special local regulations rule will establish restrictions upon, and control movement of, vessels in specified areas immediately prior to, during, and immediately after regattas or marine parades. During the enforcement periods, no person or vessel may enter the regulated areas without permission of the Captain of the Port.

DATES: The regulations in 33 CFR 100.914, 100.915, 100.919, and 100.920 will be enforced at various times between June 22, 2012 and July 29, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, email *Adrian.F.Palomeque@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the following special local regulations at the following times:

Section 100.914 Trenton Rotary Roar on the River, Trenton, MI

This special local regulation will be enforced from 12 a.m. to 6 p.m. on July 20, 2012 and from 8 a.m. to 8 p.m. on July 21 and 22, 2012.

Section 100.915 St. Clair River Classic Offshore Race, St. Clair, MI

This special local regulation will be enforced from 10 a.m. to 6 p.m. on July 27, 28 and 29, 2012.

Section 100.919 International Bay City River Roar, Bay City, MI

This special local regulation will be enforced from 9 a.m. to 6 p.m. on June 22, 23, and 24, 2012. In the case of inclement weather on June 24, 2012, this special local regulation will also be enforced from 9 a.m. to 6 p.m. on June 25, 2011.

Section 100.920 Tug Across the River, Detroit, MI

This special local regulation will be enforced from 6 p.m. to 7 p.m. on July 13, 2012.

Regulations

(1) In accordance with the general regulations in 33 CFR 100.901, entry into, transiting, or anchoring within these regulated areas is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) These regulated areas are closed to all vessel traffic, except as may be permitted by the Captain of the Port

Detroit or his designated on-scene representative.

(3) The ''designated on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the Captain of the Port Detroit or his designated on-scene representative to obtain permission.

(5) Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Captain of the Port or his designated on-scene representative.

Dated: June 13, 2012.

J.E. Ogden,

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

[FR Doc. 2012–15513 Filed 6–21–12; 11:15 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0556]

RIN 1625–AA08

Special Local Regulation; East Tawas Offshore Gran Prix, Tawas Bay; East Tawas, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on Tawas Bay, Michigan. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the East Tawas Offshore Gran Prix boat race. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of Tawas Bay. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port.

DATES: This rule is effective from 10:00 a.m. until 4:00 p.m. on June 24, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0556]. 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.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, email *Adrian.F.Palomeque@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators, participants and vessels from the hazards associated with power boat races, which are discussed further below.

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

B. Basis and Purpose

Between 10:00 a.m. and 4:00 p.m. on June 24, 2012 the OPA Racing LLC is holding an offshore powerboat race that will require the immediate area to be clear of all vessel traffic. The Captain of the Port Detroit has determined powerboat races in close proximity to watercraft and infrastructure pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, powerboats traveling at high speeds, and large numbers of spectators in close proximity to the water could easily result in serious injuries or fatalities.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Detroit has determined that a special local regulation is necessary to ensure the safety of spectators, vessels, and participants. This special local regulation will be effective and enforced from 10:00 a.m. until 4:00 p.m. on June 24, 2012. This regulated area will encompass all waters of Tawas Bay, beginning at a point on land at 44°14′53″ N, 83°27′34″ W; extending west to a point on land at position 44°15′33″ N, 83°31′30″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

Entry into, transiting, or anchoring within the regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

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

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 that Orders. It is not ''significant'' under the regulatory policies and procedures of

the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The regulated navigation area created by this rule will be relatively small and enforced for relatively short time. Also, the regulated navigation area is designed to minimize its impact on navigable waters. Furthermore, the regulated navigation area has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the regulated navigation area when permitted by the Captain of the Port.

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Tawas Bay near East Tawas, MI on June 24, 2012.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: This regulated area would be activated, and thus subject to enforcement, for only six hours in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

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** section 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 calls for no 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 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. Unfunded Mandates Reform Act

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

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Technical Standards

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

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation and, therefore it is categorically excluded from further review under paragraph (34)(h) 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T09–0556 to read as follows:

§ 100.T09–0556 Special Local Regulation; East Tawas Offshore Gran Prix, East Tawas, MI.

(a) Location. The regulated area will encompass all waters of Tawas Bay, East Tawas, Michigan, beginning at a point on land at 44°14′53″ N, 83°27′34″ W; extending west to a point on land at position 44°15′33″ N, 83°31′30″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) Enforcement Period. This regulation will be enforced on June 24, 2012 from 10:00 a.m. until 4:00 p.m.

(c) Regulations.

(1) In accordance with the general regulations in § 100.901 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative.

(2) This regulated navigation area is closed to all vessel traffic, except as may be permitted by the Captain of the Detroit or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

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

Dated: June 12, 2012.

J.E. Ogden,

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

[FR Doc. 2012–15511 Filed 6–21–12; 11:15 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0201]

RIN 1625–AA08

Special Local Regulations; ODBA Draggin' on the Waccamaw, Atlantic Intracoastal Waterway, Bucksport, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the ODBA Draggin' on the Waccamaw, a series of high-speed boat races. The event will take place on Saturday, June 23, 2012 and Sunday, June 24, 2012. Approximately 40 high-speed race boats are anticipated to participate in the races. These special local regulations are necessary to provide for the safety of life and property on navigable waters of the United States during the event. These special local regulations will temporarily restrict vessel traffic in a portion of the Atlantic Intracoastal Waterway. Persons and vessels that are not participating in the races will be prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 11:30 a.m. on June 23, 2012 through 7:30 p.m. on June 24, 2012. This rule will be enforced daily from 11:30 a.m. until 7:30 p.m. on June 23, 2012 through June 24, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0201 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0201 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Ensign John R. Santorum, Sector Charleston Waterways Management Division, Coast Guard; telephone (843) 740–3184, email *John.R.Santorum@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 24, 2012, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations; ODBA Draggin' on the Waccamaw, Atlantic Intercoastal Waterway, Bucksport, SC in the **Federal Register** (76 FR 79571). We received no comments on the proposed rule. No public meeting was requested, and none was 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**. Delaying the effective date of this rule would be impracticable and contrary to public interest. The Coast Guard published an NPRM for this event, but did not have sufficient time to publish a Final Rule more than 30 days prior to the event. Rescheduling the event to accommodate the delayed effective date would be contrary to the public interest of the event organizers, sponsors and participants who expect the event to take place as scheduled.

Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life and property on navigable waters of the United States during the ODBA Draggin' on the Waccamaw boat races.

Discussion of Rule

On Saturday, June 23, 2012 and Sunday, June 24, 2012, the Outboard Drag Boat Association (ODBA) will host Draggin' on the Waccamaw, a series of high-speed boat races. The event will be held on a portion of the Atlantic Intracoastal Waterway in Bucksport, South Carolina. Approximately 40 high-speed race boats are anticipated to participate in the races.

The special local regulations encompass certain waters of the Atlantic Intracoastal Waterway in Bucksport, South Carolina. The special local regulations will be enforced daily from 11:30 a.m. until 7:30 p.m. on June 23, 2012 through June 24, 2012. The special local regulations consist of a regulated area around vessels participating in the event. The regulated area is as follows: All waters of the Atlantic Intracoastal Waterway encompassed within an

Imaginary line connecting the following points; starting at point 1 in position 33°39′11.46″ N 079°05′36.78″ W; thence west to point 2 in position 33°39′12.18″ N 079°05′47.76″ W; thence south to point 3 in position 33°38′39.48″ N 079°05′37.44″ W; thence east to point 4 in position 33°38′42.3″ N 079°05′30.6″ W; thence north back to origin. All coordinates are North American Datum 1983. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16 to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

Regulatory Analyses

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

Regulatory Planning and Review

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

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be in enforced for only sixteen hours over a two-day period; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the effective period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area if authorized by the Captain of the Port Charleston or a designated representative; and (4) the Coast Guard will provide advance notification of the regulated area to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Intracoastal Waterway encompassed within the regulated area from 11:30 a.m. until 7:30 p.m. on June 23, 2012 and June 24, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to

health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34) (h), of the Instruction. This rule involves special local regulations issued in conjunction a regatta or marine parade. Under figure 2–1, paragraph (34) (h), of the instruction, an environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07–0201 to read as follows:

§ 100.35T07–0201 Special Local Regulations; ODBA Draggin' on the Waccamaw, Atlantic Intracoastal Waterway, Bucksport, SC.

(a) *Regulated Area.* The following regulated area is established as a special local regulation: All waters of the Atlantic Intracoastal Waterway encompassed within an Imaginary line connecting the following points; starting at point 1 in position 33°39′11.46″ N 079°05′36.78″ W; thence west to point 2 in position 33°39′12.18″ N 079°05′47.76″ W; thence south to point 3 in position 33°38′39.48″ N 079°05′37.44″ W; thence east to point 4 in position 33°38′42.3″ N 079°05′30.6″ W; thence north back to origin. All coordinates are North American Datum 1983.

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

(c) *Regulations.*

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

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

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

(d) *Enforcement Period.* This rule will be enforced daily from 11:30 a.m. until 7:30 p.m. on June 23, 2012 through June 24, 2012.

Dated: June 6, 2012.

M.F. White,

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

[FR Doc. 2012–15512 Filed 6–21–12; 11:15 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0177; FRL–9689–5]

Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Emissions Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a portion of a State Implementation Plan (SIP) revision submitted on April 29, 2010, by the State of South Carolina, through the Department of Health and Environmental Control (SC DHEC), to meet the emissions statements requirement for the York County portion of the bi-state Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area. The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the ''bi-state Charlotte Area'') is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina;

and a portion of York County (i.e., the boundary for the Rock Hill-Fort Mill Area Transportation Study) in South Carolina. EPA is addressing the emissions statements requirement for the North Carolina portion of this Area in a separate action. This action is being taken pursuant to section 110 and section 182 of the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective August 24, 2012 without further notice, unless EPA receives adverse comment by July 25, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number, ''EPA–R04–OAR–2008–0177,'' by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* 404–562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0177,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Instructions: Direct your comments to Docket ID Number, ''EPA–R04–OAR–2008–0177.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Sara Waterson of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9061. Ms. Sara Waterson can be reached via electronic mail at *waterson.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for EPA's action?
II. What is EPA's analysis of the emissions statements for South Carolina?
III. Final Action
IV. Statutory and Executive Order Reviews

I. What is the background for EPA's action?

On July 18, 1997, EPA promulgated a revised national ambient air quality standard (NAAQS or standard) for ozone, setting the standard at 0.08 parts per million (ppm) averaged over an 8-hour time frame.[1] This revised standard was established based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time.[2]

On April 30, 2004, EPA published designations and classifications for the revised 1997 8-hour ozone standard (69 FR 23858). These actions became effective on June 15, 2004. South Carolina was required to develop nonattainment SIP revisions addressing the CAA requirements for its nonattainment areas. Among other things, South Carolina was required to address the emissions statements requirement pursuant to CAA section 182(a)(3)(B).

Section 182(a)(3)(B)(i) of the CAA, requires states with areas designated nonattainment for the ozone NAAQS (under subpart 2 of the Act) to submit within 2 years of designations a SIP revision to require emissions statements to be submitted annually by nitrous oxides (NO_X) and volatile organic compound (VOC) sources to the state within that nonattainment area. Section 182(a)(3)(B)(ii) provides criteria for waiving the application of clause (i) to sources which emit less than 25 tons per year of NO_X or VOC.

In a March 14, 2006, memorandum from Thomas C. Curran, Director Air Quality Assessment Division to EPA Regional Air Division Directors (Curran Memo),[3] EPA clarified that the emissions statements requirement under CAA section 182(a)(3)(B), is applicable to all areas designated nonattainment for the 1997 8-hour ozone NAAQS and classified marginal or higher under subpart 2, part D, title I of the CAA. Consistent with EPA's interpretation of

[1] EPA notes that the Agency issued a revised 8-hour ozone standard on March 27, 2008 (73 FR 16436). Today's action, however, relates to the 1997 ozone standard. The designation and implementation process for the 2008 standard does not relate to this action.

[2] When the pre-existing 1-hour ozone standard was promulgated (62 FR 38856), the risks associated with exposure to lower concentrations of ozone over longer periods of time was less understood.

[3] The March 14, 2006, Curran Memo can be found at *http://www.epa.gov/ttnchie1/eidocs/eiguid/8hourozone_naaqs_031406.pdf.*

the submission period for other subpart 2 obligations, the Curran Memo provides that the 2-year submission period for the emissions statements rule for the 1997 8-hour ozone standard will run from the date an area was designated nonattainment and classified under subpart 2 for the 8-hour standard. Thus, states were required to submit their emissions statements rule by June 15, 2006, and the rule is required to provide that sources submit their first emissions statements to the state by no later than June 15, 2007 (for the 2006 calendar year). The Curran Memo further provides that if an area has a previously approved emissions statements rule for the 1-hour standard that covers all portions of the designated 1997 8-hour ozone nonattainment area, such rule will generally be sufficient for purposes of the emissions statements requirement for the 1997 8-hour ozone standard.

On April 29, 2010, South Carolina submitted an attainment demonstration [4] and associated reasonably available control measures, a reasonable further progress (RFP) plan, contingency measures, emissions statement, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 8-hour ozone NAAQS for its portion of the bi-state Charlotte Area. On November 15, 2011, EPA determined the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS; and subsequently, on March 7, 2012, EPA determined that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS by the applicable attainment date. *See* 76 FR 70656, and 77 FR 13493, respectively. Therefore, on January 12, 2012, South Carolina withdrew its portion of the bi-state Charlotte Area's attainment demonstration (the RFP, emissions statements, and the emissions inventory submittals, however, were not withdrawn) pursuant to 40 CFR 51.918. In today's action, EPA is approving the emissions statements portion of the attainment demonstration submitted by the State of South Carolina on April 29, 2010, as required by section 182(a)(3)(B). EPA will take action on the RFP and emissions inventory of South Carolina's April 29, 2010, SIP revision in separate actions.

[4] South Carolina withdrew an August 31, 2007, attainment demonstration SIP for its portion of the bi-state Charlotte Area on December 22, 2008. On April 29, 2010, South Carolina resubmitted the attainment demonstration SIP for its portion of the bi-state Charlotte Area.

II. What is EPA's analysis of the emissions statements for South Carolina?

The April 29, 2010, SIP revision states that South Carolina has the authority to require annual emissions statements and is taking specific actions to comply with the emissions statements requirements for any class or category of stationary sources that emits 25 tons per year or more of VOCs or NO_X. Section VI. *Moderate Nonattainment Requirements* of the April 29, 2010, SIP revision states that the South Carolina portion of the moderate nonattainment area shall make submissions prescribed under the CAA section 182(a) and will comply with these mandates. Furthermore, South Carolina ''has and is requiring, receiving, and archiving'' emissions statements. SC DHEC has created a Web site at *http://www.scdhec.gov/environment/baq/OzoneNonattainmentReporting/* to assist in this effort. SC DHEC provided a letter to EPA on May 4, 2012, to further clarify the State's emissions statements requirements. The May 4, 2012, letter can be found in the docket for today's action. EPA has evaluated South Carolina's April 29, 2010, SIP revision as it relates to the emissions statements requirement and has made the determination that it meets the requirements of CAA section 182(a)(3)(B).

III. Final Action

EPA is taking direct final action to approve a portion of a SIP revision, submitted on April 29, 2010, by the State of South Carolina, through the SC DHEC, to meet the emissions statements requirement for the 1997 8-hour ozone NAAQS. This action is being taken pursuant to section 110 and section 182 of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial revision and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comment be filed. This rule will be effective on August 24, 2012 without further notice unless the Agency receives adverse comment by July 25, 2012. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised this rule will be effective on August 24, 2012 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

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

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

In addition, this 1997 8-hour ozone NAAQS emissions statement's final approval for the bi-state Charlotte Area does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the determination does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the South Carolina portion of the bi-state Charlotte Area. Generally SIPs do not apply in Indian country throughout the United States. However, for purposes of the Catawba Indian Nation Reservation in Rock Hill, the South Carolina SIP does apply within the Reservation. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' Pursuant to Executive Order 13175 and the EPA Policy on Consultation and Coordination with Indian Tribes, in a letter dated October 13, 2011, EPA extended the opportunity for consultation between EPA and Catawba. Consultation with the Catawba Tribe began on October 14, 2011, and ended on October 31, 2011. The views and concerns raised by the Catawba Indian Nation during consultation have been taken into account in this final rule. Furthermore, EPA notes today's action will not impose substantial direct costs on tribal governments or preempt tribal law. The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

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

Dated: June 8, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart PP—South Carolina

■ 2. Section 52.2120(e), is amended by adding a new entry for ''South Carolina portion of bi-state Charlotte; 1997 8-Hour Ozone Emissions Statement'' at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED SOUTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Explanation
* *	*	* *	* *
South Carolina portion of bi-state Charlotte; 1997 8-Hour Ozone Emissions Statement.	04/29/2010	6/25/2012 [Insert citation of publication]	Applicable to the 1997 8-hour Ozone boundary in York County only (Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area).

[FR Doc. 2012–14955 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120109034–2153–02]

RIN 0648–BB62

Revisions to Framework Adjustment 47 to the Northeast Multispecies Fishery Management Plan and Sector Annual Catch Entitlements; Updated Annual Catch Limits for Sectors and the Common Pool for Fishing Year 2012

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

ACTION: Temporary final rule; adjustment to specifications.

SUMMARY: Based on the final Northeast multispecies sector rosters submitted as of May 1, 2012, NMFS is adjusting the fishing year 2012 specification of annual catch limits for commercial groundfish vessels as well as sector annual catch entitlements for groundfish stocks. This revision to fishing year 2012 catch levels is necessary to account for changes in the number of participants electing to fish in either sectors or the common pool fishery.

DATES: Effective June 22, 2012, through April 30, 2013.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, (978) 281–9182.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (the Council) developed Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) to establish a process for setting groundfish annual catch limits (also referred to as ACLs or catch limits) and accountability measures. The Council has a biennial review process to develop catch limits and revise management measures. Framework Adjustment (FW) 47 set annual catch limits for nine groundfish stocks and three jointly managed U.S./Canada stocks for FY 2012–2014. We recently approved FW 47, which became effective on May 1, 2012 (77 FR 26104).

While the Council was working on FW 47, a new benchmark stock assessment for Gulf of Maine (GOM) cod was finalized in January 2012. The perception of the stock biomass changed dramatically as a result of this assessment. The Council initially intended to include catch limit alternatives based on these updated results in FW 47. However, after the results were finalized, the Council elected not to recommend final measures for GOM cod and requested that NMFS, acting on behalf of the Secretary of Commerce, use the interim rulemaking authority provided at section 305(c) of the Magnuson-Stevens Act to implement measures designed to reduce, but not end, overfishing in fishing year (FY) 2012. We published an emergency action for GOM cod on May 1, 2012 (77 FR 25623), consistent with the Council's request. The common pool and sector GOM cod catch limits are based on this emergency action.

Along with FW 47 and the emergency GOM cod rule, we recently approved FY 2012 sector operations plans and allocations (77 FR 26129, May 2, 2012) (the''sector rule''). A sector receives an allocation of each stock, or annual catch entitlement (referred to as ACE, or allocation), based on its members' catch histories. State-operated permit banks also receive an allocation that can be transferred to qualifying sector vessels (for more information, see Amendment 17, 77 FR 16942, March 23, 2012). The sum of all sector and state-operated permit bank allocations is referred to as the sector sub-ACL in the management plan. Whatever groundfish allocation remains after sectors and state-operated permit banks receive their allocations is then provided to vessels not enrolled in a sector (referred to as the common pool). This allocation is also referred to as the common pool sub-ACL.

Changes in sector membership require ACL and ACE adjustments. This rule adjusts the FY 2012 sector and common pool allocations based on final sector membership as of May 1, 2012. Permitted vessels that wish to fish in a sector must enroll by December 1 of each year, with the fishing year beginning the following May 1 and lasting until April 30 of the next year. However, due to concern over the reduced GOM cod allocation (see the emergency action cited above), we provided additional flexibility to NE multispecies permitted vessels by allowing vessels to enroll in a sector for fishing year 2012 up through April 30, 2012. In addition, vessels had until April 30 (the day before the beginning of the fishing year) to drop out of a sector and fish in the common pool. If the sector allocation increases as a result of sector membership changes, the common pool allocation decreases—the opposite is true as well. Because sector membership has changed since the December 1, 2011, date used in the FW 47 and sector proposed and final rules, we need to update the allocations to all sectors and to the common pool.

The final number of permits enrolled in a sector or state-operated permit bank for FY 2012 is 850 (an increase of 5 permits since the December 1, 2011, roster submission). All sector allocations assume that each NE multispecies vessel enrolled in a sector has a valid permit for FY 2012. Tables 1, 2, and 3 (below) explain the revised FY 2012 allocations as a percentage and absolute amount (in metric tons and pounds).

Table 4 compares the preliminary FY 2012 allocations published in the FW 47 final rule, with the revised allocations based on the final sector and state-operated permit bank rosters as of May 1, 2012. The table shows that changes in sector allocations due to updated rosters range from a decrease of 0.14 percent of GOM winter flounder, to an increase of 2.53 percent of Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder. Common pool allocation adjustments range between a 43.18-percent decrease in Georges Bank (GB) haddock, to a 4.17-percent increase in GOM winter flounder. The changes in the common-pool allocations are greater because the common-pool has a significantly lower allocation for all stocks, so even small changes appear large when viewed as a percentage increase or decrease.

BILLING CODE 3510–22–P

Table 1. FINAL PERCENTAGE (%) OF ACE FOR EACH SECTOR BY STOCK FOR FY 2012[1]

Sector Name (Defined Below)	Number of Permits	Georges Bank (GB) Cod	Gulf of Maine (GOM) Cod[2]	GB Haddock	GOM Haddock	GB Yellowtail Flounder	Southern New England (SNE) / Mid-Atlantic (MA) Yellowtail Flounder	Cape Cod (CC)/GOM Yellowtail Flounder	American plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	105	28.26	2.26	6.36	1.35	0.01	0.30	1.92	0.55	0.84	0.03	2.02	2.90	5.86	7.86
Maine	11	0.13	1.17	0.04	1.12	0.01	0.03	0.32	1.16	0.73	0.00	0.43	0.82	1.65	1.69
NH	4	0.00	1.16	0.00	0.03	0.00	0.00	0.02	0.03	0.01	0.00	0.06	0.02	0.08	0.11
NCCS	27	0.17	0.74	0.12	0.34	0.84	0.73	0.61	0.15	0.22	0.07	0.90	0.44	0.86	0.45
NEFS II	81	6.02	18.61	11.84	16.50	1.91	1.41	19.09	8.02	12.88	3.28	18.23	15.97	6.30	12.15
NEFS III	81	1.27	15.53	0.15	9.80	0.01	0.36	9.14	4.21	2.94	0.03	10.61	1.38	4.79	7.03
NEFS IV	49	4.12	9.10	5.31	8.29	2.16	2.27	5.06	9.26	8.48	0.69	5.11	6.63	8.01	5.87
NEFS V	30	1.78	0.09	3.46	0.30	6.18	23.40	0.64	1.13	1.29	1.85	0.09	0.24	0.19	0.25
NEFS VI	19	2.85	2.53	2.92	3.81	2.70	5.17	2.87	3.80	5.09	1.42	3.69	5.31	3.91	3.29
NEFS VII	21	4.48	0.43	3.75	0.56	9.34	4.08	2.67	3.46	3.14	11.41	0.85	0.54	0.75	0.70
NEFS VIII	20	6.14	0.51	5.72	0.21	10.94	5.60	6.43	1.65	2.55	14.57	3.38	0.54	0.51	0.60
NEFS IX	61	14.58	1.77	11.84	4.80	27.91	8.23	10.58	8.33	8.31	42.70	2.44	5.83	4.15	4.23
NEFS X	54	1.18	6.10	0.31	2.61	0.02	0.55	14.54	2.09	3.70	0.02	29.36	0.57	0.98	1.52
NEFS XI	42	0.39	11.44	0.04	2.36	0.00	0.02	2.11	1.35	1.47	0.00	1.94	0.94	2.34	6.46
NEFS XII	11	0.02	2.47	0.00	0.86	0.00	0.00	0.48	0.75	0.61	0.00	0.32	1.06	2.50	2.96
NEFS XIII	40	6.86	0.81	13.82	0.90	16.65	14.83	3.68	3.77	4.82	5.39	1.77	3.88	1.71	2.17
PCCGS	45	0.21	4.68	0.04	2.53	0.00	0.66	1.05	7.52	5.03	0.01	1.96	2.49	4.26	3.76
SHS 1	112	18.67	19.65	32.19	42.19	12.49	7.94	12.70	39.37	34.33	15.88	9.51	49.83	50.10	38.15
SHS 3	19	0.43	0.57	0.37	0.28	0.44	2.89	2.31	0.80	1.20	0.17	2.50	0.22	0.23	0.07
TSS	18	0.68	0.37	1.45	0.44	7.24	1.35	1.33	0.93	0.85	1.92	1.40	0.00	0.02	0.03
All Sectors Combined	850	98.23	100.00	99.73	99.29	98.85	79.82	97.57	98.33	98.47	99.42	96.56	99.59	99.20	99.35

[1]All ACE values for sectors outlined in Table 1 assume that each sector permit is valid for FY 2012.

[2]Because FY 2011 carryover was included in the FY 2012 GOM cod ACE, GOM cod was allocated differently than the other stocks. For more information see the GOM cod emergency action discussed above.

Abbreviations: FGS-Georges Bank Cod Fixed Gear Sector, Maine-Maine Permit Bank (Maine), NCCS-Northeast Coastal Communities Sector, NH-New Hampshire Permit Bank, NEFS-Northeast Fishery Sectors, PCCGS-Port Clyde Community Groundfish Sector, SHS-Sustainable Harvest Sector, TSS-Tri-State Sector

Table 2. FINAL ACE FOR EACH SECTOR BY STOCK FOR FY 2012 (mt)[1]

Sector Name	GB Cod East	GB Cod West	GOM Cod[2]	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	45.78	1255.53	81.83	437.49	1307.24	8.84	0.03	2.30	20.08	18.12	12.12	0.94	14.41	241.34	192.35	991.18
Maine	0.22	5.93	42.41	3.05	9.11	7.31	0.03	0.24	3.33	38.18	10.53	0.01	3.04	68.40	54.24	212.89
NH	0.00	0.09	41.96	0.02	0.05	0.20	0.00	0.00	0.23	0.93	0.09	0.00	0.43	1.61	2.67	13.99
NCCS	0.28	7.60	26.81	8.34	24.92	2.22	1.83	5.52	6.39	4.86	3.14	2.32	6.46	36.63	28.14	56.75
NEFS II	9.75	267.31	673.59	814.93	2435.07	107.78	4.16	10.72	199.69	262.82	186.51	110.97	130.36	1329.68	206.95	1532.46
NEFS III	2.05	56.26	562.05	10.07	30.08	63.99	0.02	2.71	95.59	137.91	42.60	0.90	75.83	114.57	157.39	886.83
NEFS IV	6.67	182.90	329.28	365.59	1092.40	54.12	4.71	17.27	52.95	303.60	122.83	23.52	36.57	552.01	262.86	740.18
NEFS V	2.89	79.14	3.18	238.24	711.87	1.97	13.48	177.82	6.66	37.07	18.72	62.67	0.61	19.60	6.32	31.93
NEFS VI	4.62	126.80	91.54	200.97	600.52	24.89	5.88	39.32	29.97	124.71	73.64	48.09	26.38	441.89	128.40	414.64
NEFS VII	7.25	198.96	15.74	257.79	770.30	3.67	20.37	30.97	27.96	113.31	45.43	386.29	6.11	45.03	24.67	88.52
NEFS VIII	9.95	272.91	18.37	393.33	1175.31	1.40	23.85	42.55	67.25	54.14	36.95	493.45	24.20	44.56	16.60	75.37
NEFS IX	23.61	647.57	64.07	814.56	2433.96	31.32	60.84	62.55	110.71	272.99	120.31	1446.25	17.46	485.45	136.32	533.46
NEFS X	1.92	52.65	220.91	21.49	64.22	17.03	0.04	4.18	152.08	68.62	53.60	0.52	209.90	47.37	32.05	191.28
NEFS XI	0.64	17.48	413.97	2.45	7.33	15.38	0.00	0.13	22.05	44.35	21.25	0.03	13.84	77.97	76.96	814.92
NEFS XII	0.02	0.69	89.48	0.18	0.54	5.61	0.00	0.02	5.06	24.55	8.80	0.08	2.26	88.19	81.94	373.37
NEFS XIII	11.12	304.85	29.46	950.54	2840.29	5.90	36.29	112.72	38.48	123.56	69.77	182.43	12.65	323.13	56.17	274.01
PCCGS	0.34	9.24	169.33	2.58	7.72	16.52	0.01	5.04	11.02	246.57	72.80	0.22	14.04	207.23	139.93	473.84
SHS 1	30.24	829.43	711.20	2214.69	6617.66	275.48	27.23	60.32	132.88	1290.42	497.05	537.79	67.97	4148.06	1644.83	4811.08
SHS 3	0.70	19.10	20.47	25.25	75.45	1.86	0.95	21.97	24.21	26.08	17.34	5.76	17.85	18.17	7.40	9.34
TSS	1.09	30.01	13.32	99.59	297.59	2.88	15.79	10.28	13.94	30.43	12.36	65.06	10.01	0.31	0.57	4.17
All Sectors Combined	159.14	4364.45	3618.98	6861.14	20501.63	648.37	215.50	606.64	1020.55	3223.22	1425.86	3367.31	690.38	8291.22	3256.74	12530.21
Common Pool	2.86	78.55	80.02	18.86	56.37	4.63	2.50	153.36	25.45	54.78	22.14	19.69	24.62	33.78	26.26	81.79

[1]All ACE values for sectors outlined in Table 2 assume that each sector permit is valid for FY 2012.

[2]With the exception of GOM cod, these values do not include any potential ACE carryover or deductions from FY 2011 sector ACE underages or overages. The GOM cod includes carryover from FY 2011. Adjustments for any carryover or deductions will be made in a future action following reconciliation.

Table 3. FINAL ACE FOR EACH SECTOR BY STOCK FOR FY 2012 (1,000 lb)[1]

Sector Name	GB Cod East	GB Cod West	GOM Cod[2]	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	101	2768	180	964	2882	19	0	5	44	40	27	2	32	532	424	2185
Maine	0	13	93	7	20	16	0	1	7	84	23	0	7	151	120	469
NH	0	0	93	0	0	0	0	0	1	2	0	0	1	4	6	31
NCCS	1	17	59	18	55	5	4	12	14	11	7	5	14	81	62	125
NEFS II	21	589	1485	1797	5368	238	9	24	440	579	411	245	287	2931	456	3378
NEFS III	5	124	1239	22	66	141	0	6	211	304	94	2	167	253	347	1955
NEFS IV	15	403	726	806	2408	119	10	38	117	669	271	52	81	1217	580	1632
NEFS V	6	174	7	525	1569	4	30	392	15	82	41	138	1	43	14	70
NEFS VI	10	280	202	443	1324	55	13	87	66	275	162	106	58	974	283	914
NEFS VII	16	439	35	568	1698	8	45	68	62	250	100	852	13	99	54	195
NEFS VIII	22	602	40	867	2591	3	53	94	148	119	81	1088	53	98	37	166
NEFS IX	52	1428	141	1796	5366	69	134	138	244	602	265	3188	38	1070	301	1176
NEFS X	4	116	487	47	142	38	0	9	335	151	118	1	463	104	71	422
NEFS XI	1	39	913	5	16	34	0	0	49	98	47	0	31	172	170	1797
NEFS XII	0	2	197	0	1	12	0	0	11	54	19	0	5	194	181	823
NEFS XIII	25	672	65	2096	6262	13	80	248	85	272	154	402	28	712	124	604
PCCGS	1	20	373	6	17	36	0	11	24	544	161	0	31	457	308	1045
SHS 1	67	1829	1568	4883	14589	607	60	133	293	2845	1096	1186	150	9145	3626	10607
SHS 3	2	42	45	56	166	4	2	48	53	57	38	13	39	40	16	21
TSS	2	66	29	220	656	6	35	23	31	67	27	143	22	1	1	9
All Sectors Combined	351	9622	7978	15126	45198	1429	475	1337	2250	7106	3143	7424	1522	18279	7180	27624
Common Pool	6	173	176	42	124	10	6	338	56	121	49	43	54	74	58	180

[1] All ACE values for sectors outlined in Table 3 assume that each sector permit is valid for FY 2012.

[2] With the exception of GOM cod, these values do not include any potential ACE carryover or deductions from FY 2011 sector ACE underages or overages. The GOM cod includes carryover from FY 2011. Adjustments for any carryover or deductions will be made in a future action following reconciliation.

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Table 4. COMPARISON OF ALLOCATIONS BETWEEN DECEMBER 1, 2011, AND MAY 1, 2012, SECTOR ROSTERS (mt)[1]

	GB Cod	GOM Cod[2]	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
Total Commercial Allocation	4605	4170	27438	653	217.7	760	1046	3278	1448	3387	715	8325	3283	12612
Preliminary Common Pool Allocation	82	81	132	5	3	168	27	57	24	22	24	34	27	82
Adjusted Common Pool Allocation	81	80	75	5	2	153	25	55	22	20	25	34	26	82
% Change	-1.22%	-1.23%	-43.18%	0.00%	-33.33%	-8.93%	-7.41%	-3.51%	-8.33%	-9.09%	4.17%	0.00%	-3.70%	0.00%
Preliminary Sector Allocation	4523	3618	27306	648	215	592	1019	3221	1424	3365	691	8291	3256	12530
Adjusted Sector Allocation	4524	3619	27363	648	216	607	1021	3223	1426	3367	690	8291	3257	12530
% Change	0.02%	0.03%	0.21%	0.00%	0.47%	2.53%	0.20%	0.06%	0.14%	0.06%	-0.14%	0.00%	0.03%	0.00%

[1] All values for sectors outlined in Table 4 assume that each sector permit is valid for FY 2012.

[2] Includes carryover from FY 2011

It is important to point out that this is only a temporary final rule. After we finish reconciling differences in catch accounting between our data and each sector manager's data, each sector will have 2 weeks to trade FY 2011 ACE to account for any overharvesting during that period. After that 2-week trading window, a sector that still has exceeded its FY 2011 allocation will have its FY 2012 allocation reduced. Because data reconciliation and the 2-week trading window take place after the new fishing year has begun, we reserve 20 percent of each sector's FY 2012 allocation until FY 2011 catch data are reconciled. This reserve is held to ensure that each sector has sufficient ACE to balance any overages from the previous fishing year. Sectors are also able to carry over up to 10 percent of their initial allocation of most stocks to the next fishing year. We will publish a final follow-up rule detailing any carryover of FY 2011 sector allocation or reduction in FY 2012 allocation resulting from sectors under or overharvesting their allocations.

FW 47 also specifies incidental catch limits (or incidental total allowable catches, ''TACs'') applicable to the NE multispecies Special Management Programs for FY 2012–2014. Special Management Programs are designed to allow fishing for healthy stocks that can support additional fishing effort without undermining the other goals of the management plan. Incidental catch limits are specified to limit catch of certain stocks of concern for common pool vessels fishing in the Special Management Programs. Because these incidental catch limits are based on the changed common pool allocation, they also must be revised (Tables 5 and 6).

TABLE 5—INCIDENTAL CATCH TACS BY STOCK FOR FY 2012 (MT)

Stock	Percentage of Sub-ACL	Final rule 2012 incidental catch TAC	Revised 2012 incidental catch TAC
GB cod	2	1.6	1.6
GOM cod	1	0.81	0.8
GB yellowtail flounder	2	0.1	0.05
CC/GOM yellowtail flounder	1	0.3	0.3
SNE/MA yellowtail flounder	1	1.7	1.5
American plaice	5	2.9	2.7
Witch flounder	5	1.4	1.1
GB winter flounder	1	0.4	0.4
SNE/MA winter flounder	2	3.0	3.0
White hake	2	0.9	0.5

TABLE 6—INCIDENTAL CATCH TACS FOR SPECIAL MANAGEMENT PROGRAMS BY STOCK FOR FY 2012 (MT)

Stock	Regular B DAS program		Closed Area I hook gear haddock SAP		Eastern U.S./Canada haddock SAP	
	Final rule 2012	Revised 2012	Final rule 2012	Revised 2012	Final rule 2012	Revised 2012
GB cod	0.8	0.8	0.3	0.3	0.5	0.6
GOM cod	0.81	0.8	.....	.....	.....	.....
GB yellowtail flounder	0.03	0.025	.....	.....	0.03	0.025
CC/GOM yellowtail flounder	0.3	0.3	.....	.....	.....	.....
SNE/MA yellowtail flounder	1.7	1.5	.....	.....	.....	.....
American plaice	2.9	2.7	.....	.....	.....	.....
Witch flounder	1.2	1.1	.....	.....	.....	.....
GB winter flounder	0.2	0.2	.....	.....	0.2	0.2
SNE/MA winter flounder	3.0	3.0	.....	.....	.....	.....
White hake	0.5	0.5	.....	.....	.....	.....

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Orders 12866.

Pursuant to 5 U.S.C. 553(b) and (d)(3), we find good cause to waive prior public notice and opportunity for public comment on the catch limit and allocation adjustments because notice, comment, and a delayed effectiveness is impracticable and contrary to the public interest. Also, for the same reasons, we find good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective upon filing.

Notice and comment are impracticable and contrary to the public interest. We explained the need to adjust sector and common pool allocations based on final sector rosters in the proposed and final rules for fishing year 2012 sector operations plans and contracts. We receive no comments on this issue. These adjustments provide a more accurate accounting of a sector's or common pool's allocation. If this rule is not effective immediately, the public and the fishery will have incorrect information on the catch limits for each stock for sectors and the common pool. Accurate allocations will prevent potential adverse economic consequences that would result from vessels unknowingly fishing in excess of one's allocation. For the same reasons, we find good cause to waive the 30-day delay period of this rule's effectiveness.

Delaying this rule's effectiveness to allow for public comment or delaying its effectiveness for 30 days could cause negative economic impacts to both sectors and the common pool. A delay keeps management measures in place that are not based on the best available information. If the sector and common pool allocations are not adjusted immediately, groundfish vessels will operate under incorrect catch limits and

allocations until the adjustments are implemented. This could adversely affect fishermen, depending on the size of the allocation, the degree of change in the allocation, and the catch rate of a particular stock. Further, a delay—either to allow comments or pursuant to 5 U.S.C. 553(d)—would potentially impair achieving the management plan's objectives of preventing overfishing and achieving optimum yield by staying within staying within ACLs or allocations.

Making this regulatory change effective immediately allows harvesting in a manner that prevents catch limits of species from being exceeded in fisheries that are important to coastal communities. Until the final stock allocations are made, the affected fishing entities will not know how many fish of a particular stock they can catch without going over their ultimate limits. Fishermen may make both short- and long-term business decisions based on the catch limits in a given sector or the common pool. Any delays in adjusting these limits may cause the affected fishing entities to slow down, or speed up, their fishing activities during the interim period before this rule becomes effective. Both of these reactions could negatively affect the fishery and the businesses and communities that depend on them. The fishing industry and the communities it supports could be affected by potentially reducing harvests and delaying profits. Lastly, the catch limit and allocation adjustments are not controversial. Therefore, it is important to implement adjusted catch limits and allocations as soon as possible. For these reasons, we are waiving the public comment period and delay in effectiveness for this rule, pursuant to 5 U.S.C. 553(b) and (d).

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

Dated: June 20, 2012.

Samuel D. Rauch III,

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

[FR Doc. 2012–15448 Filed 6–22–12; 8:45 am]

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Proposed Rules

Federal Register
Vol. 77, No. 122
Monday, June 25, 2012

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

RIN 0551–AA81

Export Sales Reporting Requirements

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add reporting for pork (fresh, chilled, and frozen box/primal cuts) and distillers dried grain (DDG) to the Export Sales Reporting Requirements. Under this proposed rule, all exporters of U.S. pork and DDG would be required to report on a weekly basis, information on the export sales of pork and DDG to the Foreign Agricultural Service (FAS).

DATES: Submit comments on or before August 24, 2012.

ADDRESSES: Address all comments concerning this proposed rule to Peter W. Burr, Branch Chief, Export Sales Reporting Branch, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, 1400 Independence Avenue SW., Washington, DC 20250–1021, STOP 1021; or by email at *Pete.Burr@fas.usda.gov;* or by telephone at (202) 720–3274; or fax to (202) 720–0876.

FOR FURTHER INFORMATION CONTACT: Peter W. Burr, Branch Chief, Export Sales Reporting Branch, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, 1400 Independence Avenue SW., Washington, DC 20250–1021, STOP 1021; or by email at *Pete.Burr@fas.usda.gov;* or by telephone on (202) 720–3274; or by fax (202) 720–0876. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD). All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Background

In 1973, Congress mandated an export sales reporting requirement to ensure that all parties involved in the production and export of U.S. grain have access to up-to-date export information. There was concern that large grain companies had an advantage because they had more information than the public on future prices and grain trade trends. Prior to the establishment of the export sales reporting requirements, it was difficult for the public to obtain information on exports until such commodities were actually shipped.

Authorized under Section 602 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5712), the Export Sales Reporting Requirements mandate that exporters of wheat and wheat flour, feed grains, oil seeds, cotton, pork, beef and products thereof, and other commodities that the Secretary of Agriculture (the Secretary) may designate to report each week all of their export sales, regardless of the quantity, to the Secretary. The Export Sales Reporting Requirements regulation at 7 CFR 20.2 provides that the Foreign Agricultural Service (FAS), United States Department of Agriculture (USDA) administer the requirements and delegates authority to the FAS Administrator to promulgate amendments and revisions to the regulation. There are 39 commodities that are currently covered. This proposed rule would add reporting for pork (fresh, chilled, and frozen box/primal cuts) and DDG to the Export Sales Reporting Requirements.

In recent years, USDA has received numerous requests from the U.S. pork and DDG industries to add those commodities to the Export Sales Reporting Requirements. An internal review conducted by USDA supported the claim made by these industries that the addition of pork and DDG to the Export Sales Reporting Requirements would facilitate market transparency and enable the U.S. commodity markets and the U.S. industries to conduct more accurate and timely analysis on U.S. market conditions. More recently the Mandatory Price Reporting Act of 2010 (Pub. L. 111–239) mandates that pork be added to the Export Sales Reporting Requirements.

Reporting under the Export Sales Reporting Requirements is mandatory. All exporters of U.S. commodities are required to report all sales, regardless of the size of the sale, of wheat (by class), wheat products, barley, corn, grain sorghum, oats, rye, soybeans, soybean cake and meal, soybean oil, flaxseed, linseed oil, cotton (by type), sunflowerseed oil, cottonseed, cottonseed cake and meal, cottonseed oil, rice (by class), cattle hides and skins (cattle, calf, and kip), wet blues (grain, unsplit, and split), and beef. The reporting period is Friday through Thursday each week.

Exporters provide information on the quantity of the sale transaction, the type and class of commodity, the marketing year of shipment, the export amount, and the destination. They also report any change of previously reported information, such as cancellations and changes in destination. A weekly summary of the export sales activity is published every Thursday at 8:30 a.m. eastern time, unless a change of time is announced. The ''U.S. Export Sales'' report does not provide data on individual firms, only a compilation of activity by commodity. Any person (exporter) who knowingly fails to make a report could be fined up to $25,000, imprisoned for not more than one year, or both.

Additional ''daily'' sales reporting is required for wheat, corn, grain sorghum, barley, oats, soybeans, soybean cake and meal, and soybean oil. Daily sales reporting is required when sales of 100,000 metric tons (20,000 metric tons for soybean oil), or more, are made by a single exporter in one calendar day to one destination. In addition, sales totaling 200,000 metric tons (40,000 metric tons for soybean oil) made during the reporting week, excluding any previously reported daily sale, are also required to be reported under the daily sales reporting requirement. Daily sales are required to be reported to USDA by 3 p.m. eastern time no later than one day after the sale is made. Daily sales are summarized and released to the general public through a press announcement at 9:00 a.m. eastern time on the following business day and appear in the weekly report.

The ''U.S. Export Sales Reports'' are available electronically on the

INTERNET through the FAS Home Page *http://www.fas.usda.gov/export-sales/esrd1.html.* A paper copy is also available by subscription from the National Technical Information Service at *http://www.ntis.gov/products/usda-fas.aspx.*

Under this proposed rule, all exporters of U.S. pork and DDG would be required to report weekly information with respect to the export sales of pork and DDG to the Export Sales Reporting Branch, Office of Trade Programs, FAS, USDA. Required reportable information includes the quantity, destination, and marketing year of all pork and DDG export sales, changes in sales, and shipments per parameters identified in Appendix 1. A summary of the ''U.S. Export Sales Reports'' is published on FAS' Web site at *http://www.fas.usda.gov/export-sales/esrd1.html,* each Thursday at 8:30 a.m. eastern time. This change would not alter the current reporting schedule and would be undertaken using existing staff at no additional cost to the agency.

Adding pork and DDG to the Export Sales Reporting Requirements would provide an early indicator of export sales levels for these products thus improving market transparency and enabling commodity markets to better adjust to changing export activity. This proposed rule would allow for information on the total volume of sales and shipments to be available within two weeks of the export sale and shipment, rather than the nearly two-month delay experienced under the current system operated by the U.S. Bureau of the Census, which only reports actual exports.

With the pork and DDG export markets continuing to grow, the need for market transparency is becoming increasingly important. The current two-month lag in export data as available from the U.S. Bureau of the Census provides a window of opportunity for foreign buyers to buy quantities of U.S. product at prices that may be lower than if current market conditions were known. Export Sales Reporting data is released the week after the export sale takes place, thus providing a timelier indicator of current market conditions.

Executive Order 12866

The proposed rule has been determined to be significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on small businesses.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with state and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism, by relying on state and local processes for state and local government coordination and review of proposed federal financial assistance and direct federal development. This rule neither provides federal financial assistance nor direct federal development; it does not provide either grants or cooperative agreements. Therefore this program is not subject to Executive Order 12372.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988. The provisions of this proposed rule would not have a preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The proposed rule would not have a retroactive effect. Before any judicial action may be brought forward regarding this proposed rule, all administrative remedies must be exhausted.

Executive Order 13132

The policies contained in this rule would not have any substantial direct effect on 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. Nor would this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' This Executive Order imposes requirements on the development of regulatory policies that have Tribal implications or preempt tribal laws. The policies contained in this rule do not preempt Tribal law.

National Environmental Policy Act

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this proposed rule.

Unfunded Mandates Reform Act (Pub. L. 104–4)

Public Law 104–4 requires consultation with state and local officials and Indian tribal governments. This proposed rule does not impose an unfunded mandate or any other requirement on state, local, or tribal governments. Accordingly, these requirements are not subject to the provisions of the Unfunded Mandates Reform Act.

Executive Order 12630

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This proposed rule would not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Secretary of Agriculture is requesting comments from all interested individuals and organizations on a proposed revision to the currently approved information collection for this program. This revision includes the proposed change in information collection activities related to the regulatory changes in this proposed rule.

DATES: Comments on this notice must be received by August 24, 2012 to be assured of consideration.

Additional Information or Comments: Peter W. Burr, Office of Trade Programs/Import Policies and Export Reporting Division/Export Sales Reporting Branch, FAS, USDA, 1400 Independence Avenue, Stop 1025, SW., Washington, DC 20520–1025; or by email at: *esr@fas.usda.gov;* or to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Title: Export Sales (Reporting Program) of U.S. Agricultural Commodities.

OMB Number: 0551–0007.

Expiration Date of Approval: January 31, 2014.

Type of Request: Revision of a currently approved information collection.

Abstract: Section 602 of the Agricultural Trade Act of 1978, as amended, (7 U.S.C. 5712) requires the reporting of information pertaining to contracts for export sale of certain specified agricultural commodities and other commodities that may be designated by the Secretary. The Secretary of Agriculture has the authority to add other commodities to this list. This proposed rule would add reporting for pork and DDG to the Export Sales Reporting Requirements. Regulations at 7 CFR part 20 implement the reporting requirements, and prescribe a system for reporting information pertaining to contracts for export sales.

USDA's Export Sales Reporting System was created after the large unexpected purchase of U.S. wheat and corn by the Soviet Union in 1972. To make sure that all parties involved in the production and export of U.S. grain have access to up-to-date export information, the U.S. Congress mandated an export sales reporting requirement in 1973. Prior to the establishment of the Export Sales Reporting System, it was difficult for the public to obtain information on export sales activity until the actual shipments had taken place.

Estimate of Burden: The average burden, including the time for reviewing instructions, gathering data needed, completing forms, and record keeping is estimated to be 30 minutes.

Respondents: All exporters of wheat and wheat flour, feed grains, oilseeds, cotton, rice, cattle hides and skins, beef, pork, and any products thereof, and other commodities that the Secretary may designate as produced in the United States.

Estimated number of respondents: 360.

Estimated Number of Responses per Respondent: 252.37.

Estimated Total Annual Burden on Respondents: 45,427.

Requests for Comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

E-Government Act Compliance

FAS is committed to compliance with the E-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Title 7—Agriculture

List of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, 7 CFR Part 20 is proposed to be amended as follows:

PART 20—EXPORT SALES REPORTING REQUIREMENTS

1. The authority citation for part 20 would continue to read as follows:

Authority: 7 U.S.C. 5712.

2. Section 20.4 is amended by revising paragraph (c) to read as follows:

§ 20.4 Definitions.

* * * * *

(c) *Commodity.* Wheat and wheat flour, feed grains, oilseeds, cotton, rice, cattle hides and skins, beef, pork, and any products thereof, and any other agricultural commodity the Secretary may designate. ''Commodity'' shall also mean a commodity having identifying characteristics as described in any announcement issued pursuant to § 20.5 such as class(es) of wheat and rice, or staple length(s) of cotton. Mixed wheat shall be considered to be the predominant wheat class of the blend. This definition excludes commodities to be used for seed which have been treated in such a manner that their use is limited to seed for planting purposes or on which a certificate has been issued by a recognized seed testing laboratory setting forth variety, germination and purity.

* * * * *

3. Appendix 1 to Part 20 is revised to read as follows:

APPENDIX 1 TO PART 20—COMMODITIES SUBJECT TO REPORTING, UNITS OF MEASURE TO BE USED IN REPORTING, AND BEGINNING AND ENDING DATES OF MARKETING YEARS

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
Wheat—Hard red winter	Metric Tons	June 1	May 31.
Wheat—Soft red winter	Metric Tons	June 1	May 31.
Wheat—Hard red spring	Metric Tons	June 1	May 31.
Wheat—White (incl. Hard and soft white)	Metric Tons	June 1	May 31.
Wheat—Durum	Metric Tons	June 1	May 31.
Wheat—Products—All wheat flours (including clears) bulgur, semolina, farina, and rolled, cracked and crushed wheat.	Metric Tons	June 1	May 31.
Barley—Unmilled (including feed and hull-less waxy barley).	Metric Tons	June 1	May 31.
Corn—Unmilled (including waxy, cracked—if 50% whole kernels).	Metric Tons	Sept. 1	Aug. 31.
Distillers Dried Grain	Metric Tons	Sept. 1	Aug. 31.
Rye—Unmilled	Metric Tons	June 1	May 31.
Oats—Unmilled	Metric Tons	June 1	May 31.
Grain Sorghum—Unmilled	Metric Tons	Sept. 1	Aug. 31.
Soybeans	Metric Tons	Sept. 1	Aug. 31.
Soybean Cake and Meal	Metric Tons	Oct. 1	Sept. 30.

APPENDIX 1 TO PART 20—COMMODITIES SUBJECT TO REPORTING, UNITS OF MEASURE TO BE USED IN REPORTING, AND BEGINNING AND ENDING DATES OF MARKETING YEARS—Continued

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
Soybean Oil—including: crude (including degummed), once refined, soybean salad oil (including refined and further processed by bleaching, deodorizing or winterizing), hydrogenated, packaged oil.	Metric Tons	Oct. 1	Sept. 30.
Flaxseed	Metric Tons	June 1	May 31.
Linseed Oil—including raw, boiled	Metric Tons	June 1	May 31.
Cottonseed	Metric Tons	Aug. 1	July 31.
Cottonseed Cake and Meal	Metric Tons	Oct. 1	Sept. 30.
Cottonseed Oil—including crude, once refined, cottonseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	Metric Tons	Oct. 1	Sept. 30.
Sunflowerseed Oil crude, once refined, sunflowerseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	Metric Tons	Oct. 1	Sept. 30.
Cotton—American Pima—Raw, extra long staple	Running Bales	Aug. 1	July 31.
Cotton—Upland—Raw, staple length 1 1/16 inches and over.	Running Bales	Aug. 1	July 31.
Cotton—Upland—Raw, staple length 1 inch up to 1 1/16 inches.	Running Bales	Aug. 1	July 31.
Cotton—Upland—Raw, staple length under 1 inch.	Running Bales	Aug. 1	July 31.
Rice—Long grain, rough (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—Medium, short and other classes, rough (including parboiled).	Metric Tons	Aug. 1	July 31.
Rice—Long grain, brown (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—Medium, short and other classes, brown (including parboiled).	Metric Tons	Aug. 1	July 31.
Rice—Long grain, milled (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—Medium, short and other classes, milled (including parboiled, brewer's rice).	Metric Tons	Aug. 1	July 31.
Cattle Hides and Skins—Whole cattle hides (excluding wet blues).	Pieces	Jan. 1	Dec. 31.
Cattle Hides and Skins—Whole calf skins (excluding wet blues).	Pieces	Jan. 1	Dec. 31.
Cattle Hides and Skins—Whole kip skins (excluding wet blues).	Pieces	Jan. 1	Dec. 31.
Cattle Hides and Skins—Cattle, calf, and kip cut into croupons, crops, dossets, sides, butts and butt bend (hide equivalent) (excluding wet blues).	Number	Jan. 1	Dec. 31.
Cattle Hides and Skins—Cattle, calf and kip, in cuts not otherwise specified; pickled/limed (excluding wet blues).	Pounds	Jan. 1	Dec. 31.
Cattle, calf and kip, Wet blues—unsplit (whole or sided) hide equivalent.	Number	Jan. 1	Dec. 31.
Cattle, calf and kip, Wet blues—grain splits (whole or sided) hide equivalent.	Number	Jan. 1	Dec. 31.
Cattle, calf and kip, Wet blues—splits (excluding grain splits).	Pounds	Jan. 1	Dec. 31.
Beef—fresh, chilled or frozen muscle cuts/whether or not boxed.	Metric tons	Jan. 1	Dec. 31.
Pork—fresh, chilled or frozen muscle cuts/whether or not boxed.	Metric tons	Jan. 1	Dec. 31.

Dated: June 14, 2012.

Suzanne Heinen,

Administrator, Foreign Agricultural Service.

[FR Doc. 2012–15437 Filed 6–22–12; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0644; Directorate Identifier 2012–NM–011–AD]

RIN 2120–AA64

Airworthiness Directives; The Cessna Aircraft 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 Cessna Aircraft Company Model 750 airplanes. This proposed AD was prompted by reports of direct current (DC) generator overvoltage events. This proposed AD would require replacing the auxiliary power unit (APU) generator control unit (GCU). We are proposing this AD to prevent DC generator overvoltage events, which could result in subsequent smoke in the cockpit and loss of avionics and electrical systems.

DATES: We must receive comments on this proposed AD by August 9, 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 Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* 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 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: Christine Abraham, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: 316–946–4165; fax: 316–946–4107; email: *christine.abraham@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–2012–0644; Directorate Identifier 2012–NM–011–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 have received reports of direct current (DC) generator overvoltage events. The GCU overvoltage protection circuit can become damaged and allow high voltage to pass through to the airplane systems and electrical components. This condition, if not corrected, could result in smoke in the cockpit and loss of avionics and electrical systems.

Relevant Service Information

We reviewed Cessna Service Bulletin SB750–24–30, dated December 5, 2011. The service information describes procedures for replacing the APU GCU having part number (P/N) 9914752–2 with one having P/N 9914752–6.

Other Relevant Rulemaking

On January 28, 2011, we issued AD 2011–03–16, Amendment 39–16600 (76 FR 8607, February 15, 2011), for Model 750 airplanes. That AD requires an inspection to determine the serial numbers of the APU generator and the left and right engine DC generators, and corrective actions if necessary. That AD also requires revising the airplane flight manual (AFM). That AD was prompted by a report of a DC generator overvoltage event, which caused smoke in the cockpit and damage to numerous avionics and electrical components. In that AD, we noted that additional rulemaking might be necessary. The replacement proposed in this AD is necessary in addition to the actions required by AD 2011–03–16, in order to address the identified unsafe condition.

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 accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

Differences Between the Proposed AD and the Service Information

Operators should note that, although the Accomplishment Instructions of Cessna Service Bulletin SB750–24–30, dated December 5, 2011, state that operators must return the GCU having P/N 9914752–2 to the manufacturer, this proposed AD would not include that requirement.

Operators should also note that, although the Accomplishment Instructions of Cessna Service Bulletin SB750–24–30, dated December 5, 2011, describe procedures for submitting a sheet recording compliance with that service bulletin, this proposed AD would not include that requirement.

Costs of Compliance

We estimate that this proposed AD affects 58 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
Replacement	2 work-hours × $85 per hour = $170	$2,400	$2,570	$149,060

According to the manufacturer, all 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 Cessna Aircraft Company: Docket No. FAA–2012–0644; Directorate Identifier 2012–NM–011–AD.

(a) Comments Due Date

We must receive comments by August 9, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Cessna Aircraft Company Model 750 airplanes; certificated in any category; having serial numbers –0222, –0225 through –0306 inclusive, and –0308.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by reports of direct current (DC) generator overvoltage events. We are issuing this AD to prevent DC generator overvoltage, which could result in smoke in the cockpit and loss of avionics and electrical systems.

(f) Compliance

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

(g) Replacement

Except as required by paragraph (h) of this AD: Within 6 months after the effective date of this AD, replace the auxiliary power unit generator control unit (GCU) having part number (P/N) 9914752–2 with one having P/N 9914752–6, in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB750–24–30, dated December 5, 2011.

(h) Exceptions

(1) Where the Accomplishment Instructions of Cessna Service Bulletin SB750–24–30, dated December 5, 2011, state that operators must return the GCU having P/N 9914752–2 to the manufacturer, this AD does not require that action.

(2) Where the Accomplishment Instructions of Cessna Service Bulletin SB750–24–30, dated December 5, 2011, state that the operator must record that the service bulletin has been completed, this AD does not require that action.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Christine Abraham, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: 316–946–4165; fax: 316–946–4107; email: *christine.abraham@faa.gov.*

(2) For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com*; Internet *https://www.cessnasupport.com/newlogin.html.* 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 June 18, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15451 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0671; Directorate Identifier 2011–NM–096–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Airbus Model A330–243, –341, –342 and –343 airplanes. The existing AD currently requires modifying certain cowl assemblies of the left- and right-hand thrust reversers. Since we issued that AD, the manufacturer has issued new life limits on certain thrust reverser C-duct assemblies. This proposed AD would require removing certain C-duct assemblies of the left- and right-hand thrust reversers from service at certain designated life limits, and would also add airplanes to the applicability. We are proposing this AD to prevent fatigue cracking of the hinges integrated into the 12 o'clock beam of the thrust reversers, which could result in separation of a thrust reverser from the airplane, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by August 9, 2012.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0671; Directorate Identifier 2011–NM–096–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 2, 2005, we issued AD 2005–25–21, Amendment 39–14414 (70 FR 73919, December 14, 2005). That AD required actions intended to address an unsafe condition on Airbus Model A330–243, –341, –342, and –343 airplanes equipped with Rolls-Royce RB211 TRENT 700 engines.

Since we issued AD 2005–25–21, Amendment 39–14414 (70 FR 73919, December 14, 2005), the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0018, dated February 3, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI has added Model A330–243F airplanes to the applicability. The MCAI states:

> The life limits of the thrust reversers C-ducts are not addressed by the definition of the structural life limits of Safe Life items as defined in the A330 Airworthiness Limitations Section—ALS Part 1. As a result, these life limits are covered by an Airworthiness Directive (AD).
>
> These life limits are due to unexpected high fatigue loads (measured during certification tests) on the hinges integrated into the 12 o'clock beam, which forms the upper extreme edge of the thrust reverser C-Duct of Rolls Royce Trent 700 engines.
>
> The aim of the [Direction Générale de l'Aviation Civile] (DGAC) France AD F–2001–528 was to mandate the life limits, depending of the modifications applied to the C-duct.
>
> Revision 1 of the DGAC France AD F–2001–528 deferred the accomplishment threshold of the modification to be applied in-service from 6,000 flight cycles (FC) to 6,500 FC.
>
> Revision 2 of DGAC France AD F–2001–528 [which corresponds to FAA AD 2005–25–21, Amendment 39–14414 (70 FR 73919, December 14, 2005)] was issued to update again the accomplishment threshold from 6,500 FC to 7,200 FC.
>
> This [EASA] AD retains the requirements of DGAC France AD F–2001–528 R2, which is superseded, and adds [certain] life limits.

The action required in this proposed AD is removing certain C-duct assemblies of the left- and right-hand thrust reversers from service at certain designated life limits. This proposed AD also adds Model A330–243F airplanes to the applicability and revises the applicability to include all airplanes of the affected models. The unsafe condition is fatigue cracking of the hinges integrated into the 12 o'clock beam of the thrust reversers, which could result in separation of a thrust reverser from the airplane, and consequent reduced controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A330–78–3010, Revision 03, dated April 28, 2004. The actions

described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 17 products of U.S. registry. We estimate that it would take up to 48 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $69,360, or $4,080 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2005–25–21, Amendment 39–14414 (70 FR 73919, December 14, 2005), and adding the following new AD:

Airbus: Docket No. FAA–2012–0671; Directorate Identifier 2011–NM–096–AD.

(a) Comments Due Date

We must receive comments by August 9, 2012.

(b) Affected ADs

This AD supersedes AD 2005–25–21, Amendment 39–14414 (70 FR 73919, December 14, 2005).

(c) Applicability

This AD applies to all Airbus Model A330–243, –243F, –341, –342 and –343 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 78, Engine Exhaust.

(e) Reason

This AD was prompted by new life limits on certain thrust reverser C-duct assemblies. We are issuing this AD to prevent fatigue cracking of the hinges integrated into the 12 o'clock beam of the thrust reversers, which could result in separation of a thrust reverser from the airplane, and consequent reduced controllability 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) C-Duct Assembly Removal

At the applicable compliance time specified in table 1 of this AD: Remove the applicable C-duct assemblies of the left- and right-hand thrust reversers, in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). Thereafter, for any C-duct assembly of the left- and right-hand thrust reversers installed after the effective date of this AD, before the accumulation of the applicable total flight cycles specified in table 1 of this AD: Remove the C-duct assembly, in accordance with a method approved by either the Manager, International Branch, ANM 116, Transport Airplane Directorate, FAA; or the EASA (or its delegated agent).

TABLE 1—PART REMOVAL THRESHOLDS

Part No.—	Compliance times at the later of the times specified—	
HDTR3410L, HDTR3410R, HDTR3411L, HDTR3411R, HDTR3412R, HDTR3413R.	Before the accumulation of 10,000 total flight cycles since the first installation of C-duct on the airplane.	Within 3 months after the effective date of this AD.
HDTR3414L, HDTR3416R, HDTR3417R that have been modified in service as specified in Airbus Mandatory Service Bulletin A330-78-3010, or Rolls-Royce Service Bulletin RB.211–78–C899, at 7,200 total flight cycles or more since first installation on an airplane.	Before the accumulation of 10,000 total flight cycles since the first installation of C-duct on the airplane.	Within 3 months after the effective date of this AD.

TABLE 1—PART REMOVAL THRESHOLDS—Continued

HDTR3414L, HDTR3416R, HDTR3417R that have been modified in production by Airbus Modification 47316; or modified in service as specified in Airbus Mandatory Service Bulletin A330-78-3010, or Rolls-Royce Service Bulletin RB.211–78–C899, before the accumulation of 7,200 total flight cycles since first installation on an airplane.	Before the accumulation of 25,000 total flight cycles since the first installation of C-duct on the airplane.	Within 3 months after the effective date of this AD.
HDTR3412L, HDTR3416L, HDTR3417L, HDTR3414R, HDTR3419R, HDTR3420R.	Before the accumulation of 25,000 total flight cycles since the first installation of C-duct on the airplane.	Within 3 months after the effective date of this AD.
HDTR3413L, HDTR3415R, HDTR3415L, HDTR3418R ..	Before the accumulation of 40,000 total flight cycles since the C-duct was new.	Within 3 months after the effective date of this AD.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2011–0018, dated February 3, 2011; and Airbus Mandatory Service Bulletin A330–78–3010, Revision 03, dated April 28, 2004; for related information.

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.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.

Issued in Renton, Washington, on June 14, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15461 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0617; Directorate Identifier 2007–NM–354–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That NPRM proposed to require repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. That NPRM was prompted by a report of an in-service occurrence of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. This action revises that NPRM by proposing to require repetitive operational tests, and other related testing and corrective action if necessary. We are proposing this supplemental NPRM to detect and correct loss of the engine fuel suction feed capability of the fuel system, which in the event of total loss of the fuel boost pumps could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Since these actions impose an additional burden over that proposed in the previous NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by August 9, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; 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 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: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0617; Directorate Identifier 2007–NM–354–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 issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That NPRM published in the **Federal Register** on June 6, 2008 (73 FR 32255). That NPRM proposed to require repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Actions Since Previous NPRM (73 FR 32255, June 6, 2008) Was Issued

Since we issued the previous NPRM (73 FR 32255, June 6, 2008), we have received comments from operators indicating a high level of difficulty performing the actions in the previous NPRM during maintenance operations.

Relevant Service Information

We reviewed Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D626A001–CMR, Revision August 2011, of the Boeing 737–600/700/700C/800/900/900ER Maintenance Planning Data (MPD) Document. Among other things, Section 9 describes AWL No. 28–AWL–101, Engine Fuel Suction Feed Operational Test, of Section E., AWLS—Fuel Systems, which provides procedures for performing repetitive operational tests of the engine fuel suction feed of the fuel system.

Comments

We gave the public the opportunity to comment on the previous NPRM (73 FR 32255, June 6, 2008). The following presents the comments received on the previous NPRM and the FAA's response to each comment.

Requests To Change Approved Method of Compliance for Operational Test

Continental Airlines (CAL), Airlines for America (A4A) on behalf of its member American Airlines (AAL), and Sun Country Airlines asked that the approved method of compliance specified in paragraph (f) of the previous NPRM (73 FR 32255, June 6, 2008) be changed to refer to the airplane maintenance manual (AMM) instead of requiring the repetitive tasks.

CAL and AAL recommended that certain language in paragraph (f) of the previous NPRM (73 FR 32255, June 6, 2008) be changed to require incorporation of the operational test into the operator's maintenance program in the same manner as the Instructions for Continued Airworthiness (ICA).

AAL stated that since there is no modification or terminating action for the actions specified in the previous NPRM (73 FR 32255, June 6, 2008), the AD need not mandate the task itself. AAL noted that operators should be required to incorporate into their respective maintenance programs a mandatory task, as specified in CMRs, AWLs, or airworthiness limitation items. AAL stated that this approach would be consistent with the processes utilized by operators for the SFAR 88 (66 FR 23086, May 7, 2001) requirements.

We agree with the requests to refer to the AMM. AWL No. 28–AWL–101 refers to the AMM. We have replaced paragraph (f) of the previous NPRM (73 FR 32255, June 6, 2008), with a new paragraph (g) in this supplemental NPRM that would require the operational tests as specified in the MPD.

Sun Country Airlines stated that related AMM tasks are equivalent procedures for performing the operational test referred to in paragraph (f) of the previous NPRM (73 FR 32255, June 6, 2008). This commenter stated that clarification should be provided as to whether using the procedures specified in AMM Task 28–22–00–710–801 meets the intent of paragraph (f) of the previous NPRM. This commenter also noted that, because the AMM task is already contained in Task Card 28–050–00–01, and has a repetitive interval identified in the MPD, the repetitive action should be removed from the previous NPRM and addressed as a CMR.

We disagree with the commenter's request. The manifold test (Task 28–22–00–710–801) is not equivalent to the operational test (Task 28–22–00–710–802) for the purposes of this proposed action. The positive internal fuel line pressure applied during the manifold test does not simulate the same conditions encountered during fuel suction feed (i.e., vacuum), and may mask a failure. We have not changed the supplemental NPRM in this regard.

Requests To Clarify if Engine Fuel Suction Feed Test Is Allowed in Lieu of the Operational Test

KLM, A4A on behalf of its member DAL, and Sun Country Airlines asked that we clarify the engine fuel suction feed test procedure in the AMM as an option to performing the operational test. KLM suggested that we consider the test procedure done per AMM Task 28–22–15–710–801 as an alternative test. KLM added that this alternative test is allowed by MPD 28–050–00, and is mentioned in Task Card 28–050–00–01. KLM noted that the advantage of this alternative test is that it can be performed without fuel in the tank; therefore, if the tanks are still open during the test and the test fails, easy access is gained to the damaged area. DAL stated that the intention of the previous NPRM (73 FR 32255, June 6, 2008) seems to be performing an engine fuel suction feed test, so paragraph (f) of the previous NPRM should be clarified to include that test as an option. The commenters stated that the engine fuel suction feed test in the AMM and the operational test in the previous NPRM are equivalent tests and are allowed per Task Card 28–050–00–01.

We agree to provide clarification. As noted previously, the manifold test (Task 28–22–00–710–801) is not equivalent to the operational test (Task 28–22–00–710–802) for the purposes of this proposed action. The positive internal fuel line pressure applied during the manifold test does not simulate the same conditions encountered during fuel suction feed (i.e., vacuum), and may mask a failure. Therefore, we have not changed the supplemental NPRM in this regard.

Request To Include Corrective Action

Boeing and CAL asked that corrective action be included in the proposed requirements of the previous NPRM (73

FR 32255, June 6, 2008). CAL recommended that paragraph (f) of the previous NPRM be changed to also ''correct any discrepancy identified as necessary, before further flight. Refer to 737NG FIM 28–22 task 819.'' CAL noted that the fault isolation manual (FIM) should be considered as an ICA that is an approved method by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Boeing stated that the requirement in the preamble of the previous NPRM (FAA's Conclusions) for additional testing would be better described as performing corrective action in case the engine suction feed operational test is not successful.

We agree with the requests to include corrective action for this supplemental NPRM. Since the current revision of the AWL does not include the corrective action, paragraph (g) of this supplemental NPRM specifies that corrective action for findings from the operational tests be done in accordance with a method approved by the Manager, Seattle ACO, FAA.

Requests To Revise Repetitive Interval

CAL, Qantas Airways Ltd (Qantas), and Boeing asked that we revise the compliance time for the repetitive operational test proposed by paragraph (f) of the previous NPRM (73 FR 32255, June 6, 2008).

CAL asked that the interval be extended from 7,500 flight hours to 2C-check or 12,500 flight hours, whichever occurs first. As justification for extending the repetitive interval, CAL stated that fleet history revealed no reported engine flameout events or related operational discrepancies.

Qantas and Boeing asked that the repetitive interval be changed to 7,500 flight hours or 36 months, whichever occurs first. Qantas and Boeing stated that, for low-utilization airplanes, it would take more than 10 years of operation before an operational test would be necessary.

We agree to revise the compliance times. We have added new paragraph (g) to this supplemental NPRM to include an initial test within 7,500 flight hours or 36 months, whichever occurs first after the maintenance program is revised. We have also included a repetitive interval of 7,500 flight hours or 36 months, whichever occurs first.

Request To Include Warning Information

CAL suggested that the Boeing service manuals include a critical design configuration control limitations (CDCCL) warning identification statement to alert maintenance personnel of the importance of regulatory compliance, as well as the configuration control requirement of the task. CAL did not include any justification for this request.

We agree that a CDCCL warning statement would serve as direct communication to maintenance personnel that there is an AD associated with certain maintenance actions, but do not find this additional measure necessary to adequately address the unsafe condition. We have made no change to the supplemental NPRM in this regard.

Request To Clarify the Reason for the Unsafe Condition

Boeing asked that we clarify the unsafe condition identified in the previous NPRM (73 FR 32255, June 6, 2008) by specifying that the AD results from a report of an in-service occurrence of total loss of pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine.

We agree to clarify the unsafe condition. We have revised the Summary section and paragraph (e) of this supplemental NPRM accordingly.

Request To Revise Costs of Compliance Section

A4A, on behalf of its member DAL, asked that the cost estimate be changed. DAL stated that the cost estimate specified in the previous NPRM (73 FR 32255, June 6, 2008) is too low, and asked that it be changed. DAL noted that $80 per product based on 1 work hour per product does not include the cost of fuel. DAL estimated that the cost of fuel alone would be $83 per test occurrence; for the 71 airplanes in its fleet, this translates to a cost of $5,893 per test cycle.

We do not agree that the cost estimate should be changed. ADs, which require specific actions to address specific unsafe conditions, appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain and operate their airplanes in an airworthy condition, this appearance is deceptive. Attributing those fuel costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining and operating safe airplanes, prudent operators would accomplish the required actions even if they were not required to do so by the AD. In any case, we have determined that direct and incidental costs are still outweighed by the safety benefits of the AD. Except for updating the hourly labor rate to $85, we have made no further change to the cost estimates provided in this supplemental NPRM.

FAA's Determination

We are proposing this supplemental NPRM 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. Certain changes described above expand the scope of the original NPRM (73 FR 32255, June 6, 2008). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM revises the previous NPRM (73 FR 32255, June 6, 2008); by proposing to require repetitive operational tests of the engine fuel suction feed of the fuel system, and would require other related testing and corrective action if necessary.

Explanation of Change to Costs of Compliance

Since issuance of the previous NPRM (73 FR 32255, June 6, 2008), we have increased the labor rate used in the Costs of Compliance from $80 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified labor rate.

Costs of Compliance

We estimate that this proposed AD would affect 1,080 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Operational Test	1 work-hour × $85 per hour = $85	$85	$91,800

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions or the optional terminating action specified in this AD.

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–2008–0617; Directorate Identifier 2007–NM–354–AD.

(a) Comments Due Date

We must receive comments by August 9, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, with a date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness before March 22, 2011.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2800, Aircraft Fuel System.

(e) Unsafe Condition

This AD was prompted by a report of an in-service occurrence of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. We are issuing this AD to detect and correct loss of the engine fuel suction feed capability of the fuel system, which in the event of total loss of the fuel boost pumps could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

(f) Compliance

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

(g) Initial/Repetitive Operational Tests

Within 7,500 flight hours or 36 months after the effective date of this AD, whichever occurs first: Do the initial operational test identified in AWL No. 28–AWL–101, Engine Fuel Suction Feed Operational Test, of Section E., AWLS—Fuel Systems of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D626A001–CMR, Revision August 2011, of Boeing 737–600/700/700C/800/900/900ER Maintenance Planning Data (MPD) Document. Repeat the test thereafter at intervals not to exceed 7,500 flight hours or 36 months, whichever is earlier. If the test is not considered successful, as specified in AWL No. 28–AWL–101, before further flight, perform all related testing and corrective actions, using a method approved in accordance with the procedures specified in paragraph (h) of this AD. Thereafter, except as provided in paragraph (h) of this AD, no alternative procedure or repeat test intervals will be allowed.

(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.

(i) Related Information

(1) For more information about this AD, contact Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@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, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; 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.

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

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15469 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0035]

16 CFR Part 1500

Revocation of Certain Requirements Pertaining to Caps Intended for Use With Toy Guns and Toy Guns Not Intended for Use With Caps

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 106 of the Consumer Product Safety Improvement Act of 2008 (''CPSIA'') considers the provisions of ASTM International

Standard F 963, ''Standard Consumer Safety Specifications for Toy Safety'' (''ASTM F 963''), to be consumer product safety standards issued by the U.S. Consumer Product Safety Commission (''CPSC,'' ''Commission,'' or ''we''). Among other things, ASTM F 963 contains provisions regarding sound-producing toys. The ASTM F 963 provisions for sound-producing toys allow manufacturers to use more options with readily available test equipment for sound measurement to determine compliance than our existing regulations pertaining to caps intended for use with toy guns and toy guns not intended for use with caps, which were included in the regulations under the Federal Hazardous Substances Act (''FHSA'') that were transferred to the Commission's jurisdiction in 1973. The test methodology also refers to obsolete equipment. Consequently, we are proposing to revoke our existing banning regulations pertaining to caps intended for use with toy guns and toy guns not intended for use with caps because they are obsolete and have been superseded by the requirements of ASTM F 963.

DATES: Comments must be received by August 24, 2012.

ADDRESSES: Comments, identified by Docket No. CPSC–2012–0035, may be submitted by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email) except through *http://www.regulations.gov.*

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

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

FOR FURTHER INFORMATION CONTACT: Richard McCallion, Office of Hazard Identification and Reduction, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2222; email: *rmccallion@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Revocation of Certain Regulations Pertaining to Toy Caps and Toy Guns Not Intended for Use With Caps

In September 1973, the FHSA and its implementing regulations, which included provisions pertaining to caps for use with toy guns and toy guns not intended for use with caps, were transferred from the U.S. Food and Drug Administration (''FDA'') to the CPSC. *See* 38 FR 27012 (September 27, 1973). One of the transferred regulations includes a ban on caps intended for use with toy guns and toy guns not intended for use with caps ''if such caps when so used or such toy guns produce impulse-type sound at a peak pressure level at or above 138 decibels. * * *'' *See* 16 CFR 1500.18(a)(5).

Another transferred regulation, 16 CFR 1500.86(a)(6), contains provisions for exemptions from the classification of a banned toy under 16 CFR 1500.18(a)(5) for toy caps with a sound level from 138 decibels up to a maximum decibel level of 158. Manufacturers participating in this decibel-reduction program are required to report their intention to participate in the program, include a specific warning statement on the product packaging, and report quarterly on the progress regarding the production of caps with a maximum noise level of 138 decibels. This exemption is included in the revocation because there are no manufacturers participating in this program. Additionally, a third transferred regulation, 16 CFR 1500.47, provides the test method for determining the sound pressure level produced by toy caps and toy guns. The method specifies the use of certain equipment, such as a microphone, preamplifier, and two types of oscilloscopes with specific response and calibration ranges, and it also addresses the manner in which one would measure peak sound pressure levels.

Section 106 of the CPSIA considers the provisions of ASTM International Standard F 963, ''Standard Consumer Safety Specification for Toy Safety,'' to be consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (''CPSA''). References to ASTM F 963 in this document refer to ASTM F 963–11, which became effective on June 12, 2012. Section 4.5 of ASTM F 963 establishes requirements for ''sound-producing toys,'' and section 8.19 of ASTM F 963 establishes ''Tests for Toys Which Produce Noise.'' In general, the ASTM F 963 requirements for sound-producing toys are at least equivalent to, and more reflective of potential damage to human hearing, than 16 CFR 1500.18(a)(5) and 1500.47. For example, section 4.5.1.5 of ASTM F 963 states that the peak sound pressure level of impulsive sounds produced by a toy using percussion caps or other explosive action ''shall not exceed 125'' decibels at 50 centimeters, whereas, 16 CFR 1500.18(a)(5) imposes a ban at or above 138 decibels at 25 centimeters. As another example, section 8.19.2.4 of ASTM F 963 uses a weighted scale based on human hearing damage from the type of impulse noise being generated by the toy, whereas, 16 CFR 1500.47 uses an unweighted scale for measuring pressure level generated by impulse-type sound.

Additionally, the ASTM F 963 test method involves the use of modern equipment (microphones meeting a particular specification), whereas, 16 CFR 1500.47 specifies the use of a microphone, a preamplifier (if required), and an oscilloscope. The equipment specifications in 16 CFR 1500.47 have never been updated.

Consequently, because section 106 of the CPSIA mandates the provisions of ASTM F 963 to be consumer product safety standards, and because we believe that the provisions of ASTM F 963, with respect to paper or plastic caps intended for use with toy guns, are at least equivalent to 16 CFR 1500.18(a)(5), we propose to revoke 16 CFR 1500.18(a)(5). Similarly, because ASTM F 963 establishes a test method for toys that produce sound, and because our existing regulation refers to obsolete or unnecessary test equipment, we propose to revoke 16 CFR 1500.47. Finally, because we are proposing the revocation of 16 CFR 1500.18(a)(5), we are also proposing the revocation of the exemptions from the requirements of 16 CFR 1500.18(a)(5) contained in 16 CFR 1500.86(a)(6).

B. Paperwork Reduction Act

This rule would not impose any information collection requirements. Accordingly, this rule is not subject to

the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

C. Regulatory Flexibility Act

We have examined the impacts of the proposed rule under the Regulatory Flexibility Act (5 U.S.C. 601–612). The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule would revoke outdated regulatory requirements, the Commission certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

D. Environmental Considerations

This rule falls within the scope of the Commission's environmental review regulation at 16 CFR 1021.5(c)(1), which provides a categorical exclusion from any requirement for the agency to prepare an environmental assessment or an environmental impact statement for rules that revoke product safety standards.

E. Executive Order 12988

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. The preemptive effect of regulations such as this proposal is stated in section 18 of the FHSA. 15 U.S.C. 1261n.

F. Effective Date

The Commission is proposing that the rule revoking 16 CFR 1500.18(a)(5), 1500.47, and 1500.86(a)(6) would become effective 30 days after publication of the final rule in the **Federal Register**.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping requirements, Toys.

For the reasons stated in the preamble, and under the authority of 15 U.S.C. 1261–1262 and 5 U.S.C. 553, the Consumer Product Safety Commission proposes to amend 16 CFR part 1500 as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority citation for 16 CFR part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278.

§ 1500.18 [Amended]

2. Section 1500.18 is amended by removing and reserving paragraph (a)(5).

§ 1500.47 [Removed]

3. Section 1500.47 is removed entirely.

§ 1500.86 [Amended]

4. Section 1500.86 is amended by removing and reserving paragraph (a)(6).

Dated: June 20, 2012.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2012–15409 Filed 6–22–12; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC–2012–0034]

Petition Requesting Commission Action Regarding Crib Bumpers

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Petition for rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (''Commission'') has received a petition (CPSC–2012–0034), requesting that the Commission initiate rulemaking to distinguish and regulate ''hazardous pillow-like'' crib bumpers from ''non-hazardous traditional'' crib bumpers under sections 7 and 9 of the Consumer Product Safety Act (''CPSA''). The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by August 24, 2012.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0034, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov.*

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

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

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6833.

SUPPLEMENTARY INFORMATION: The Commission has received correspondence from the Juvenile Products Manufacturers Association (JPMA), (''petitioner''), dated May 9, 2012, requesting that the Commission initiate rulemaking to distinguish and regulate ''hazardous pillow-like'' crib bumpers from ''non-hazardous traditional'' crib bumpers under sections 7 and 9 of the Consumer Product Safety Act (''CPSA''). The Commission is docketing this request as a petition under the Consumer Product Safety Act. 15 U.S.C. 2056 and 2058. Petitioner states that, despite information to the contrary regarding the safety of traditional crib bumpers, some are advocating banning bumpers altogether from the marketplace. Petitioner believes that banning traditional crib bumpers may lead to caregivers adding unsafe soft bedding to cribs to serve as a protective barrier from the tight dimensions and hard wooden surface of the crib slats. Petitioner includes a third party review of previous studies of crib bumper pads as support of the fact that claims of increased risk to infants from traditional crib bumper use are unfounded. Petitioner also includes a copy of proposed ASTM performance requirements that petitioner believes provide a reasonable basis for a mandatory crib bumper performance standard.

By this notice, the Commission seeks comments concerning this petition. Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, U.S. Consumer

Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. A copy of the petition also will be made available for viewing under ''Supporting and Related Materials'' in *www.regulations.gov* under this docket number.

Dated: June 18, 2012.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2012–15328 Filed 6–22–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–134935–11]

RIN 1545–BK55

Overall Foreign Loss Recapture on Property Dispositions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations provide guidance regarding the coordination of the rules for determining high-taxed income with capital gains adjustments and the allocation and recapture of overall foreign losses and overall domestic losses, as well as the coordination of the recapture of overall foreign losses on certain dispositions of property and other rules concerning overall foreign losses and overall domestic losses. These regulations affect individuals and corporations claiming foreign tax credits.

DATES: Written or electronic comments and requests for a public hearing must be received by August 24, 2012.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–134935–11), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–134935–11), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20044, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–134935–11).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Jeffrey L. Parry, (202) 622–3850; concerning submissions of comments, Oluwafunmilayo (Funmi) Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

1. High-Taxed Income

Section 904(d)(2)(F) of the Internal Revenue Code (Code) provides that certain high-taxed income that would otherwise be passive income will be treated as general category income if the foreign taxes paid or accrued, and deemed paid or accrued, with respect to such income exceed the highest rate of tax specified in section 1 or section 11, whichever applies, multiplied by the amount of such income. Section 1.904–4(c) provides detailed rules for determining whether income is high-taxed, including rules for testing income based on subgroups within passive income and allocating expenses, losses and other deductions to that income.

Questions have arisen regarding the coordination of these rules with the capital gains adjustments under section 904(b) and loss allocations and loss account recapture under section 904(f) and (g). The proposed regulations at § 1.904–4(c) clarify that the determination as to whether income is high-taxed is made before taking into account any adjustments under section 904(b) or any allocation of losses or recapture of loss accounts under section 904(f) and (g). The Treasury Department and the IRS believe these ordering rules are consistent with the use in section 904(d)(2)(F) of the highest statutory U.S. tax rate, rather than the taxpayer's pre-credit effective U.S. tax rate, to determine whether income is high-taxed.

2. Dispositions of Property Under Section 904(f)(3)

Section 904(f)(3) provides that if a taxpayer disposes of certain property used or held for use predominantly without the United States in a trade or business, gain is recognized on that disposition and treated as foreign source income, regardless of whether the gain would otherwise be recognized, to the extent of any overall foreign loss account in the separate category of foreign source taxable income generated by the property. Section 1.904(f)–2(d) provides separate rules for dispositions in which gain is recognized irrespective of section 904(f)(3) and dispositions in which the gain would not otherwise be recognized.

Questions have arisen regarding the coordination of overall foreign loss recapture under section 904(f)(3) with other provisions of section 904(f) and (g). Accordingly, these proposed regulations revise the ordering rules under § 1.904(g)–3 that generally provide for the coordination of section 904(f) and (g) to include specific references for taking into account overall foreign loss recapture under section 904(f)(3).

In the case of dispositions in which gain is recognized irrespective of section 904(f)(3), the overall foreign loss recapture is included in Step Five along with other general overall foreign loss recapture.

Dispositions in which the gain would not otherwise be recognized are addressed separately. Section 1.904(f)–2(d)(4)(i) provides, in part, that where gain would not otherwise be recognized on a disposition, the amount of gain that will be recognized under section 904(f)(3) is equal to the balance in the applicable foreign loss account after taking into account any amounts recaptured from the account from other recognized income for the year (as well as certain other adjustments). In other words, the additional amount of income to be recognized can only be determined after the first seven steps of the ordering rules in § 1.904(g)–3 have been completed. Accordingly, a new Step Eight is added to those ordering rules to address the recognition of the additional income under section 904(f)(3) and the corresponding recapture of the applicable overall foreign loss account. New Step Eight also provides that if the additional recognition of gain increases the allowable amount of the net operating loss deduction, then the recapture of the overall foreign loss account occurs first before the additional net operating loss carryover is taken into account to offset all or a portion of that gain. The Treasury Department and the IRS believe priority should be given to the additional recapture of the overall foreign loss account pursuant to section 904(f)(3) before any net operating loss carryover reduces that gain. This is because the primary reason for recognizing the otherwise unrecognized gain is to recapture the overall foreign loss account.

Proposed Effective Date

The regulations, as proposed, will apply to any taxable year ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a

significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Jeffrey L. Parry of the Office of Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.904–4 is amended by adding paragraph (c)(2)(iii) and by adding a sentence at the end of paragraph (n) to read as follows:

§ 1.904–4 Separate application of section 904 with respect to certain categories of income.

* * * * *

(c) * * *

(2) * * *

(iii) *Coordination with section 904(b), (f) and (g).* The determination of whether foreign-source passive income is high-taxed is made before taking into account any adjustments under section 904(b) or any allocation or recapture of a separate limitation loss, overall foreign loss or overall domestic loss under section 904(f) and (g).

* * * * *

(n) * * * Paragraph (c)(2)(iii) of this section applies to taxable years ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 3. Section 1.904(g)–3 is amended by revising paragraph (f), adding paragraph (i) and adding a sentence at the end of paragraph (k) to read as follows:

§ 1.904(g)–3 Ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and for the recapture of separate limitation losses, overall foreign losses, and overall domestic losses.

* * * * *

(f) *Step Five: Recapture of overall foreign loss accounts.* If the taxpayer's separate limitation income for the taxable year (reduced by any losses carried over under paragraph (b) of this section) exceeds the sum of the taxpayer's U.S. source loss and separate limitation losses for the year, so that the taxpayer has separate limitation income remaining after the application of paragraphs (d)(1) and (e) of this section, then the taxpayer shall recapture prior year overall foreign losses, if any, in accordance with § 1.904(f)–2, and reduce overall foreign loss accounts in accordance with § 1.904(f)–2. Such recapture shall include amounts determined under § 1.904(f)–2(c) and (d)(3) but not § 1.904(f)–2(d)(4).

* * * * *

(i) *Step Eight: Dispositions under section 904(f)(3) in which gain would not otherwise be recognized.* The taxpayer shall determine the amount of gain that would otherwise not be recognized but that must be recognized in accordance with § 1.904(f)–2(d)(4) (not exceeding the taxpayer's applicable overall foreign loss account) and then apply § 1.904(f)–2(a) and (b) to recapture overall foreign loss accounts in an amount equal to the gain recognized. To the extent this recognition of gain in a taxable year increases the amount of a net operating loss carryover to that taxable year, paragraphs (b) through (e) of this section shall be applied to determine the allocation of the additional net operating loss, but only after the applicable overall foreign loss account has been recaptured as provided in this paragraph (i).

(k) * * * Paragraphs (f) and (i) of this section apply to taxable years ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2012–15443 Filed 6–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–125570–11]

RIN 1545–BK38

Disregarded Entities and the Indoor Tanning Services Excise Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to disregarded entities (including qualified subchapter S subsidiaries) and the indoor tanning services excise tax. These regulations affect disregarded entities responsible for collecting the indoor tanning services excise tax and owners of those disregarded entities. The text of the temporary regulations also serves as the text of the proposed regulations.

DATES: Comments and requests for a public hearing must be received by September 24, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–125570–11), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–125570–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–125570–11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations,

Michael H. Beker, (202) 622–3130; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 1361 of the Internal Revenue Code (Code) and the Procedure and Administration Regulations (26 CFR part 301) under section 7701 of the Code. The text of temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Michael H. Beker, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAX

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

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

Par. 2. Section 1.1361–4 is amended by adding paragraph (a)(8)(iii) to read as follows:

§ 1.1361–4 Effect of QSub election.

(a) * * *

(8) * * *

(iii) [The text of proposed § 1.1361–4(a)(8)(iii) is the same as the text of § 1.1361–4T(a)(8)(iii)(A) and (B) published elsewhere in this issue of the **Federal Register**].

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

Par. 4. Section 301.7701–2 is amended by adding new paragraphs (c)(2)(vi) and (e)(9) to read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(c) * * *

(2) * * *

(vi) [The text of proposed § 301.7701–2(c)(2)(vi) is the same as the text of § 301.7701–2T(c)(2)(vi) published elsewhere in this issue of the **Federal Register**].

* * * * *

(e) * * *

(9) [The text of proposed § 301.7701–2(e)(9) is the same as the text of § 301.7701–2T(e)(9)(i) published elsewhere in this issue of the **Federal Register**].

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2012–15421 Filed 6–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AO24

Veterans' Group Life Insurance (VGLI) No-Health Period Extension

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations governing eligibility for Veterans' Group Life Insurance (VGLI) to extend to 240 days the current 120-day ''no-health'' period during which veterans can apply for VGLI without proving that they are in good health for insurance purposes. The purpose of this proposed rule is to increase the opportunities for disabled veterans to enroll in VGLI, some of who would not qualify for VGLI coverage under existing provisions.

DATES: Comments must be received by VA on or before July 25, 2012.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO24—Veterans' Group Life Insurance (VGLI) No-Health Period Extension.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Monica Keitt, Attorney/Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), 5000 Wissahickon Avenue, P.O. Box

8079, Philadelphia, PA 19101, (215) 842–2000, ext. 2905. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs has authority to prescribe regulations that are necessary or appropriate to carry out the laws administered by VA and that are consistent with those laws. 38 U.S.C. 501(a). Section 1977 of title 38, United States Code, authorizes the Veterans' Group Life Insurance (VGLI) program, which provides servicemembers separating from service with the option of converting existing Servicemembers' Group Life Insurance (SGLI) coverage into renewable, 5-year term group life insurance coverage. 38 U.S.C. 1968(b)(1)(A); *see* 38 U.S.C. 1977(b). Furthermore, section 1977(b)(5) authorizes VA to impose reasonable and practicable terms and conditions on the provision of VGLI. VA has exercised that authority by providing, in 38 CFR 9.2(b), effective dates of VGLI coverage, provided that the administrative office has received an application and the initial premium within certain specified periods, usually within 120 days following termination of duty.

Section 9.2(c) provides an exception to the imposition of those limitation periods. If either an application or the initial premium has not been received by the administrative office within the applicable period specified in § 9.2(b), VGLI coverage may still be granted if the administrative office receives an application, the initial premium, and ''evidence of insurability'' within 1 year and 120 days following termination of duty. Thus, evidence of insurability is not required if a veteran submits to the administrative office an application and the initial premium within the period required by § 9.2(b), but evidence of insurability is required if a veteran utilizes the 1-year grace period provided by § 9.2(c). This proposed rule would extend the period during which no evidence of insurability is needed from 120 days to 240 days.

VA proposes to amend § 9.2(c) to extend the ''no-health'' period during which veterans can apply for VGLI without the need to provide ''evidence of insurability'' demonstrating good health that is normally necessary to obtain life insurance. Under § 9.2(c), a veteran has an eligibility period of ''1 year and 120 days following termination of duty'' to apply for VGLI. Currently, during the initial 120 days following termination of duty, veterans can qualify for VGLI without the need to prove that they are ''insurable.'' This proposed rule would extend the VGLI ''no-health'' period from 120 days to 240 days; it would make no change to the 1 year and 120-day VGLI eligibility period following termination of duty except to extend the period during which no evidence of insurability is needed.

VA is proposing to extend the 120-day ''no-health'' period to 240 days to increase the opportunity for disabled veterans to apply for VGLI. VA has found that during the initial 120-day adjustment period following termination of duty, many veterans have not had time to assess their life insurance needs. An expanded ''no-health'' period would also provide VA Insurance outreach services with an increased opportunity to discuss insurance coverage with these veterans while they are still in the ''no-health'' period. By amending § 9.2(c), VA would ensure that veterans with service-connected disabilities have ample opportunity to provide life insurance protection for their families and loved ones.

In addition to changes made to the length of the ''no-health'' period, this amendment of § 9.2(c) would also include removal of the words ''Servicemembers' Group Life Insurance or,'' which refers to Retired Reservist SGLI, which was discontinued by Public Law 104–275 as an independent program on October 9, 1996, because the program was merged into the VGLI program and extended VGLI to members of the Ready Reserves. As a result, reference to SGLI in § 9.2(c) is no longer applicable.

Finally, VA is proposing to amend § 9.2 by revising the authority citation that follows § 9.2(b)(4) to read ''(Authority: 38 U.S.C. 1977)'' instead of ''(Authority: 38 U.S.C. 1977(e)).'' This amendment will reflect the proper legal authority under which VGLI provisions apply, as it relates to this regulation, instead of just paragraph (e), which is not broad enough to provide the proper authority for VGLI provisions provided under § 9.2.

VA estimates that there would be no additional costs to the Government as a result of this proposed rule. We anticipate that the final rule will be effective in early fall 2012, and apply to veterans released from service on or after the effective date.

Comment Period

Although under the rulemaking guidelines in Executive Order 12866, VA ordinarily provides a 60-day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 30 days. VA does not expect to receive a large number of comments on this proposed rule, particularly comments that are negative or that oppose this rule, because this rule would increase the opportunity for veterans to obtain valuable insurance coverage that is needed to help ensure financial security for their families, while placing no additional burdens on veterans or their families. Lastly, VA believes that implementation of this regulation is particularly urgent because by extending the VGLI ''no-health'' eligibility period, it will enable some of the most disabled veterans to obtain insurance coverage when eligibility for commercial insurance is not possible due to their disabilities. The 30-day review and comment period will not result in any additional cost or cause any negative impacts on the program, but will make the extended ''no-health'' period available to disabled veterans sooner. Accordingly, the Secretary has determined that it is unnecessary, impracticable, and contrary to the public interest to provide for a longer comment period, and VA has provided that comments must be received within 30 days of publication in the **Federal Register.**

Unfunded Mandates

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

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant

regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

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

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Number and Title

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on June 20, 2012, for publication.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.

Dated: June 20, 2012.

Robert C. McFetridge,

Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 9 as follows:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

1. The authority citation for part 9 continues to read as follows:

Authority: 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

2. Amend § 9.2 by:

a. Revising the authority citation at the end of paragraph (b).

b. Revising paragraph (c).

c. Adding an authority citation at the end of the section.

The revisions and addition read as follows:

§ 9.2 Effective date; applications.

* * * * *

(b) * * *

(Authority: 38 U.S.C. 1977)

(c) If either an application or the initial premium has not been received by the administrative office within the time limits set forth above, Veterans' Group Life Insurance coverage may still be granted if an application, the initial premium, and evidence of insurability are received by the administrative office within 1 year and 120 days following termination of duty, except that evidence of insurability is not required during the initial 240 days following termination of duty.

* * * * *

(Authority: 38 U.S.C. 501, 1967, 1968, 1977)

[FR Doc. 2012–15420 Filed 6–22–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0177; FRL–9689–4]

Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Emissions Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a portion of a State Implementation Plan (SIP) revision submitted on April 29, 2010, by the State of South Carolina, through the Department of Health and Environmental Control (SC DHEC), to meet the emissions statements requirement for the York County portion of the bi-state Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area. The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County (i.e., the boundary for the Rock Hill-Fort Mill Area Transportation Study) in South Carolina. EPA is addressing the emissions statements requirement for the North Carolina portion of this Area in a separate action. This proposed action is being taken pursuant to section 110 and section 182 of the Clean Air Act.

DATES: Written comments must be received on or before July 25, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number, ''EPA–R04–OAR–2008–0177,'' by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: R4-RDS@epa.gov.*

3. *Fax:* 404–562–9019.

4. *Mail:* ''EPA–R04–OAR–2008–0177,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Ms. Sara Waterson of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency,

Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9061. Ms. Sara Waterson can be reached via electronic mail at *waterson.sara@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 12, 2008, EPA issued a revised ozone national ambient air quality standard (NAAQS). *See* 73 FR 16436. The current action, however, is being taken to address requirements under the 1997 ozone NAAQS. For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: June 8, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–14953 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2012–0457, FRL–9691–4]

Approval and Promulgation of Air Quality Implementation Plans; United States Virgin Islands; Regional Haze Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to promulgate a Federal Implementation Plan (the Plan) to address regional haze in the Territory of the United States Virgin Islands. EPA proposes to determine that the Plan meets the requirements of the Clean Air Act and EPA's rules concerning reasonable progress towards the national goal of preventing any future and remedying any existing man-made impairment of visibility in mandatory Class I areas (also referred to as the ''regional haze program''). The proposed Plan protects and improves visibility levels in the Virgin Islands Class I area, namely the Virgin Islands National Park on the island of St. John. The Plan for the Virgin Islands will address Reasonable Progress toward improving visibility and evaluation of Best Available Retrofit Control Technology. The reader is referred to the Regional Haze Virgin Islands Federal Implementation Plan found in the Docket for this action, which contains a complete description of all of the elements to address regional haze. EPA is taking comments on this proposal and plans to follow with a final action.

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

Public Hearing: If you wish to request a hearing and present testimony, you should notify Mr. Geoffrey Garrison on or before July 6, 2012, and indicate the nature of the issues you wish to provide oral testimony during the hearing. Mr. Garrison's contact information is found in **FOR FURTHER INFORMATION CONTACT.**

Oral testimony will be limited to 5 minutes per person. The hearing will be strictly limited to the subject matter of this proposal, the scope of which is discussed below. EPA will not respond to comments during the public hearing. EPA will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. A verbatim transcript of the hearing and written statements will be made available for copying during normal working hours at the address listed for inspection of documents, and also included in the Docket. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket Number EPA–R2–OAR–2012–0457, at the address listed for submitting comments. Note that any written comments and supporting information submitted during the comment period will be considered with the same weight as any oral comments presented at the public hearing. If no requests for a public hearing are received by close of business on July 6, 2012, a hearing will not be held; please contact Mr. Garrison to find out if the hearing will actually be held or will be cancelled for lack of any request to speak.

ADDRESSES: *Public Hearing:* A public hearing, if requested, will be held at Virgin Islands Department of Planning and Natural Resources, St. Thomas Office, Cyril E. King Airport, Terminal Building, St. Thomas, VI 00802, on July 17, 2012, beginning at 6:00 p.m.

Comments: Submit your comments, identified by Docket Number EPA–R02–OAR–2012–0457, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email: Werner.Raymond@epa.gov*.
- *Fax:* 212–637–3901.
- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays. Hand Delivery of comments will also be accepted by Mr. Jim Casey, Virgin Islands Coordinator, Environmental Protection Agency, Region 2 Virgin Islands Field Office, Tunick Building, Suite 102, 1336 Beltjen Road, St. Thomas, VI 00801, 340–714–2333.

Instructions: Direct your comments to Docket Number EPA–R02–OAR–2012–0457. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/air/docket.html*.

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:

- Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.
- Environmental Protection Agency, Region 2 Virgin Islands Field Office, Tunick Building, Suite 102, 1336 Beltjen Road, St. Thomas, VI 00801.
- Environmental Protection Agency, Region 2, St. Croix Public Affairs Office, 4200 Estate St. John #4237, Christiansted, VI 00820.

EPA requests, if at all possible, that 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:

- Robert F. Kelly, State Implementation Planning Section, Air Programs Branch, EPA Region 2, 290 Broadway, New York, New York 10007–1866. The telephone number is (212) 637–4249. Mr. Kelly can also be reached via electronic mail at *kelly.bob@epa.gov*.
- Geoffrey M. Garrison, Community Involvement Coordinator, Public Affairs Division, U.S. EPA Region 2, St. Croix, U.S. Virgin Islands, BB: 340–201–5328, Email: *garrison.geoffrey@epa.gov*.
- Jim Casey, Virgin Islands Coordinator, Environmental Protection Agency, Region 2 Virgin Islands Field Office, Tunick Building, Suite 102, 1336 Beltjen Road, St. Thomas, VI 00801, 340–714–2333, Email: *casey.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever ''Agency,'' ''we,'' ''us,'' or ''our'' is used, we mean the EPA. In most cases in this document, where we use the term ''state'' when discussing requirements or recommendations under the Clean Air Act or Agency guidance, this includes the Territory of the Virgin Islands.

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I. What action is EPA proposing?

EPA is proposing a plan to address regional haze in the Virgin Islands under the Clean Air Act (CAA or the Act) sections 301(a) and 110(k)(3). EPA proposes a Federal Implementation Plan (FIP) which includes measures that will reduce emissions that contribute to regional haze in the Virgin Islands and make progress toward the Reasonable Progress Goal (RPG) for 2018, as determined by EPA. RPGs are interim visibility goals towards meeting the Act's national visibility goal of no man-made contribution to visibility reduction. In addition, EPA proposes Best Available Retrofit Technology (BART) control determinations for sources in the Virgin Islands that may be subject to BART. This proposed action and the accompanying FIP documents that are available in the Docket explain the basis for EPA's proposed actions on the Virgin Islands Regional Haze FIP.

EPA's Authority To Promulgate a FIP

The Act 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 or Territory are referred to as State Implementation Plans or SIPs. A state must submit its SIPs and SIP revisions to us for approval. Once approved, a SIP is federally enforceable, that is enforceable by EPA and citizens under the Act. 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)).

EPA made a finding of failure to submit on January 15, 2009 (74 FR 2392), determining that the U.S. Virgin Islands failed to submit a SIP that addressed any of the required regional haze SIP elements of 40 CFR 51.308.

Under section 110(c) of the Act, whenever we find that a state has failed to make a required submission we are required to promulgate a FIP. Specifically, section 110(c) provides:

(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

(A) finds that a state has failed to make a required submission or finds that the plan or plan revision submitted by the state does not satisfy the minimum criteria established under [section 110(k)(1)(A)], or

(B) disapproves a state implementation plan submission in whole or in part, unless the state corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.

Section 302(y) defines the term ''Federal implementation plan'' in pertinent part, as:

> [A] plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions or emissions allowances) * * *.

Thus, because we determined that the Virgin Islands failed to submit a Regional Haze SIP, we are required to promulgate a Regional Haze FIP.

II. What is the background for EPA's proposed action?

Regional haze is visibility impairment that is produced by many sources and activities which are located across a broad geographic area and emit fine particles and their precursors (e.g., sulfur dioxide, nitrogen oxides, and in some cases, ammonia and volatile organic compounds). Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$) (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), which also impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. Visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas, many of which are also referred to as Federal Class I areas. (CAA section 162(a)).

In the 1977 Amendments to the CAA, Congress initiated a program for protecting visibility in the nation's national parks and wilderness areas. Section 169A(a)(1) of the Act 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 which impairment results from manmade air pollution.'' In 1990 Congress added section 169B to the Act to address regional haze issues. On July 1, 1999, EPA promulgated the Regional Haze Rule (RHR) (64 FR 35714, July 1, 1999). 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) of the RHR required states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

On January 15, 2009, EPA issued a finding that the Virgin Islands had failed to submit the Regional Haze SIP (74 FR 2392, January 15, 2009). EPA's January 15, 2009 finding established a two-year deadline of January 15, 2011 for EPA to either approve a Regional Haze SIP for the Virgin Islands, or adopt a FIP. This proposed action is intended to address the January 15, 2009 finding. EPA continues to work with the Virgin Islands Government to develop a State Implementation Plan for Regional Haze.

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 Virgin Islands National Park is sufficiently far from the continental United States, therefore there was no need for the Virgin Islands government to participate in any of these RPOs.

III. What are the requirements for regional haze SIPs?

The following is a basic explanation of the RHR. See 40 CFR 51.308 for a complete listing of the regulations under which this FIP was developed.

A. The Act and the Regional Haze Rule (RHR)

Regional haze SIPs must assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas. Section 169A of the Act 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 or ''dv'' as the principal metric for measuring visibility. This visibility metric expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Visibility is determined by measuring the visual range, which is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky. The dv is calculated from visibility measurements. Each dv change is an equal incremental change in visibility perceived by the human eye. For this reason, EPA believes it is a useful measure for tracking progress in improving visibility. Most people can detect a change in visibility at one dv. The preamble to the RHR provides additional details about the deciview (64 FR 35725, July 1, 1999).

The dv 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 manmade air pollution by reducing anthropogenic emissions that cause regional haze. The national goal is a return to natural conditions, i.e., manmade sources of air pollution would no longer impair visibility in Class I areas.

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, the RHR requires states to calculate the degree of existing visibility impairment at each Class I area at the time of each regional haze SIP submittal and review progress midway through each 10-year planning period. To do this, the RHR requires states to determine the degree of impairment (in dv) 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, the RHR requires states to develop an estimate of

natural visibility conditions for the purposes 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. EPA has provided guidance to states regarding how to calculate baseline, natural and current visibility conditions.[1]

For the initial regional haze SIPs that were due by December 17, 2007, baseline visibility conditions were used as the starting points for assessing current visibility impairment. Baseline visibility conditions represent the degree of impairment for the 20 percent least impaired days and 20 percent most impaired days at the time the regional haze program was established. Using monitoring data for 2000 through 2004, the RHR required states 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.

C. Determination of Reasonable Progress Goals (RPGs)

The submission of a series of regional haze SIPs from the states that establish RPGs for Class I areas for each (approximately) 10-year planning period is the vehicle for ensuring continuing progress towards achieving the natural visibility goal. 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 (i.e., ''background'') 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.

States, and in this case, the Virgin Islands government, have significant discretion in establishing RPGs, but are required to consider the following factors established in the Act and in EPA's RHR: (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. (See 40 CFR 51.308(d)(1)(i)(A)). States have considerable flexibility in how they take these factors into consideration, as noted in our Reasonable Progress guidance.[2] 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'' or the ''glidepath'') and the emission reduction measures needed to achieve that rate of progress over the 10-year period of the SIP. 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 Class I State's areas. (40 CFR 51.308(d)(1)(iv)).

D. Best Available Retrofit Control Technology (BART)

Section 169A of the Act 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, the Act 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 stationary sources[3] built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Control Technology'' as determined by the state. (CAA 169A(b)(2)(A)). States are directed to conduct BART determinations for such 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 equal or 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 40 CFR part 51, Appendix Y (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. The BART Guidelines require states to use the approach set forth in the BART Guidelines in making a BART applicability determination for a fossil fuel-fired electric generating plant with a total generating capacity in excess of 750 megawatts. The BART Guidelines encourage, but do not require states to follow the BART Guidelines in making BART determinations for other types of sources.

The BART Guidelines recommend that states address all visibility impairing pollutants emitted by a source in the BART determination process. The most significant visibility impairing pollutants are sulfur dioxide (SO_2), nitrogen oxides (NO_X), and PM. The BART Guidelines direct states to use their best judgment in determining whether volatile organic compounds (VOCs), or ammonia (NH_3) and ammonia compounds impair visibility in Class I areas.

In their SIPs, states must identify potential BART sources, described as ''BART-eligible sources'' in the RHR, and document their BART control determination analyses. In making BART determinations, section 169A(g)(2) of the Act requires that states consider the following factors: (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. States are free to determine the weight and significance to be assigned to each factor. (70 FR 39170, July 6, 2005).

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

[1] *Guidance for Estimating Natural Visibility conditions under the Regional Haze Rule,* September 2003, (EPA–454/B–03–005 located at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_envcurhr_gd.pdf*), (hereinafter referred to as ''EPA's 2003 Natural Visibility Guidance''), and *Guidance for Tracking Progress Under the Regional Haze Rule* (EPA–454/B–03–004 September 2003 at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_tpurhr_gd.pdf*)), (hereinafter referred to as ''EPA's 2003 Tracking Progress Guidance'').

[2] *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program,* (''EPA's Reasonable Progress Guidance''), July 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (pp. 4–2, 5–1).

[3] The set of ''major stationary sources'' potentially subject to BART are listed in CAA section 169A(g)(7).

regional haze SIP, as required by the Act (section 169A(g)(4)) and by the RHR (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. States have the flexibility to choose the type of control measures they will use to meet the requirements of BART.

E. Long-Term Strategy (LTS)

Consistent with the requirement in section 169A(b) of the Act, 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 Long-Term Strategy (LTS) in their SIPs. The LTS is the compilation of all control measures a state will use to meet any 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)). Since sources in the Virgin Islands do not affect visibility in any other states' Class I areas, this particular LTS requirement does not apply.

States should consider all types of anthropogenic sources of visibility impairment in developing their LTS, including stationary, minor, mobile, and area sources. At a minimum, states must describe how each of the seven factors listed below is taken into account in developing their LTS: (1) Emission reductions due to ongoing air pollution control programs, including measures to address Reasonably Attributable Visibility Impairment (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; (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 (RAVI)

As part of the RHR, EPA revised 40 CFR 51.306(c) regarding the LTS for states with Class I areas 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 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 reasonably attributable and regional haze visibility impairment, and the state must submit the first such coordinated LTS with its first regional haze SIP revision. Future coordinated LTSs, 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 reviews of a state's LTS must report on both regional haze and RAVI impairment and must be submitted to EPA as a SIP revision, in accordance with 40 CFR 51.308.

G. Monitoring Strategy and Other Implementation Plan Requirements

If a state has a Class I Federal Area in the state, the requirements in section 51.308(d)(4) of the RHR must be met. These requirements include 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 and this 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 Interagency Monitoring of Protected Visual Environment (IMPROVE) network. The monitoring strategy is due with the first regional haze SIP, and it must be reviewed every five years. Note that section 51.308(d)(4) contains a list of additional items the implementation plan must address.

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.

IV. What is the proposed implementation plan to address regional haze in the Virgin Islands?

A. Affected Class I Areas

In accordance with 40 CFR 51.308(d), we have indentified one Class I area in the Territory of the Virgin Islands: The Virgin Islands National Park, where the FLM—the National Park Service—has identified visual impairment as an important value that must be addressed in regional haze plans. Thus, the Virgin Islands, and in this case, EPA consulting with the Government of the Territory of the Virgin Islands, must develop a Regional Haze Plan that addresses the causes of visibility impairment in the Class I area, that describes the long-term emission strategy, the consultation processes, and other requirements in EPA's regional haze regulations. Because the Virgin Islands are home to a Class I area, we will address the following Regional Haze Plan elements: (a) Calculation of baseline and natural visibility conditions, (b) establishment of RPGs, (c) monitoring requirements, and (d) RAVI requirements as required by EPA's RHR. These elements will constitute a FIP, developed in consultation with the FLM and the involvement of the Virgin Islands Government and its environmental agency, the Virgin Islands Department of Planning and Natural Resources (VIDPNR).

1. Relative Contributions of Pollutants to Visibility Impairment

An important step toward identifying reasonable progress measures is to identify the key pollutants contributing to visibility impairment at each Class I area. To understand the relative benefit

of further reducing emissions from different pollutants, EPA evaluated data from the IMPROVE air quality station, located in the Virgin Islands National Park near Cruz Bay, on the western end of the island of St. John. On the days with the worst visibility, the following table lists the particulate species that contribute to reduced visibility.

TABLE 1—VISIBILITY REDUCTION FROM PARTICULATES ON THE WORST 20% OF DAYS IN 2004

Coarse Particulates	17.6 Mm^{-1}	36.4%
Sea Salt	9.88 Mm^{-1}	20.5%
Sulfates	9.29 Mm^{-1}	19.2%
Fine Soil	6.68 Mm^{-1}	13.8%
Nitrates	2.59 Mm^{-1}	5.4%
Elemental Carbon	1.40 Mm^{-1}	2.9%
Organic Carbon	0.90 Mm^{-1}	1.9%

Megameters^{-1} (Mm^{-1}) are a unit of visibility impairment. Larger values are greater amounts of interference with visibility.

The size of particulates from Saharan Dust range from 2 to 5 microns, so Saharan Dust is a major contributor to both fine (less than 2.5 microns) soil and coarse matter (greater than 2.5 microns). As shown in research studies and ongoing satellite data, Saharan Dust is transported in large quantities across the Atlantic Ocean and mixed in the surface air where it reduces visibility. This effect is most often seen, and recorded in particulate samples from the IMPROVE monitor, in the early summer months as tropical waves move from Africa across the Atlantic Ocean to the Caribbean Sea and beyond. Since fine soil in the air is often largely Saharan Dust, and increases in fine soil and coarse particulate are found during documented Sahara Dust events, it is likely that all or most of the fine soil and coarse particulate found on days with impaired visibility is a result of Saharan Dust.

EPA commissioned a microinventory of emissions on St. John to determine if other sources, particularly local sources of fine or coarse dust, could be contributing to the large amount of fine soil and coarse particulate found on the IMPROVE filters and contributing to high impairment of visibility on St. John. The largest anthropogenic sources of particles found in the microinventory were dirt from the roadways and some dust from construction activities.

Other potential sources of particulates that reduce visibility are combustion sources on the Virgin Islands, including the HOVENSA refinery on St. Croix, ships that serve St. John and miscellaneous combustion sources on St. John.

Trajectory analysis conducted by EPA for days with the highest contributions to visibility impairment showed that fine soil and coarse dust, which are major contributors to Virgin Islands haze episodes, match with long range transport from Africa. Also, sulfates and nitrates, which were at lower concentrations than found in the continental United States, did not correspond to a group of particular sources on days with higher sulfate and nitrate concentrations. Combustion products are often found on days when the trajectories began in the distant continental United States up to two weeks earlier and when air patterns are looping though the Caribbean region in general. There was no obvious or consistent source for days high in combustion products.

These results support the hypothesis that the major contributor to visibility impairment in the Virgin Islands National Park is Saharan Dust. Though on some days, sulfate is a significant contributor to visibility impairment (but still a small contributor compared to continental United States monitoring sites). The Docket contains the results of the modeling using trajectories and using photochemical dispersion models.

B. Long-Term Strategy/Strategies (LTS)

As described above, the Long Term Strategy (LTS) is a compilation of control measures relied on to support the RPGs for the Virgin Islands National Park. The LTS for the Virgin Islands for the first implementation period will address the emissions reductions from Federal, territorial and local controls that take effect in the Territory from the baseline period starting in 2000 until 2018.

EPA has reviewed potential strategies to improve visibility in the Virgin Islands and determined that the following strategies are reasonably available for application in the Virgin Islands: Reductions in sulfur in fuel from ferries and cruise ships, the Federal motor vehicle control program, and the consent decree for the HOVENSA refinery on St. Croix. In this action, EPA proposes these controls that we determined are likely to have the largest impacts currently on visibility at the Virgin Islands National Park. EPA estimated emissions reductions for 2018, based on all controls required under Federal and Territory regulations for the 2000–2018 period (including BART), and comparing projected visibility improvement with the uniform rate of progress for the Virgin Islands National Park Class I area. While the LTS for the Virgin Islands does not reach the reasonable progress goal for 2018 for the Virgin Islands, reducing other emissions is not feasible due to the Virgin Islands' unique circumstances and lack of major emission sources, as discussed further in this proposal.

1. Emissions Inventory for 2018 With Federal and Territory Control Requirements

The emissions inventory used to determine the impact of sources in the Virgin Islands on visibility in the Class I area and the impact of planned emission controls is based on an emission inventory developed by an EPA contractor for the island of St. John, an inventory of significant sources in recent major source permit applications, additional information collected from the HOVENSA refinery on St. Croix and estimated emissions from other islands surrounding St. John, not included in the Territory of the United States Virgin Islands. The emissions reductions used to determine the effects on improving visibility in the National Park were based on projections of Federal and Territorial emission control programs, and other emission reductions specific to the Virgin Islands. EPA has determined that the major effect on visibility impairment in the Virgin Islands National Park is long-range transport of Saharan Dust.[4] However, EPA has also determined that anthropogenic emissions of sulfates, nitrates, particulate carbon and other fine and coarse particulates are significant to PM mass and visibility impairment in the Virgin Islands National Park. The BART guidelines direct states to exercise judgment in deciding whether volatile organic

[4] Please refer to the Virgin Islands Regional Haze FIP contained in the Docket for this action, for additional information regarding Saharan Dust.

compounds and ammonia impair visibility in their Class I area(s) and whether their emissions can be addressed at this time. Total ammonia emissions in the region are extremely small and will not be addressed at this time. As for volatile organic compounds, they do not directly affect visibility, but can form particulate compounds in the presence of nitrogen oxides and radicals. The development of an emission inventory for volatile organic compounds emitted in the Virgin Islands is in its early stages, so EPA proposes to defer evaluation of the impact of these emissions to visibility reduction to the next round of visibility plans, covering 2018 to 2028.

The island of St. John has an inventory that is complete for particulate matter, sulfur oxides and nitrogen oxides. The compiled inventory for other portions of the Virgin Islands included major point sources, since these would have the greatest influence on visibility on St. John. The proposed FIP has calculated changes in emissions from two source groups in the Virgin Islands: The HOVENSA refinery on St. Croix and marine vessels that travel to and from St. John. Reasonable controls are not available for other sources in the Virgin Islands because their impact on visibility in the National Park is very small or the prospective emission reductions are not cost effective based on the EPA's guidelines. While other sources, like motor vehicles, may have fewer emissions by 2018, the EPA has not calculated changes in emissions because the Islands' remote location makes national defaults for changes like vehicle turnover problematic for estimating future emissions in the Virgin Islands.

For the proposed Haze FIP for the Virgin Islands, the official inventory will be the inventory for the island of St. John. Reductions by 2018 are from the use of lower sulfur fuels and nitrogen oxide controls on marine vessels as part of the Emissions Control Area (ECA) covering the portions of the United States in the Caribbean.

TABLE 2—SULFUR OXIDES EMISSIONS FROM POINT, AREA AND MOBILE SOURCES ON ST. JOHN, VIRGIN ISLANDS

[Tons per year]

Source sector	Baseline 2002	2018 (With measures for RPG)
Point	43.11	43.11
Area	0.05	0.05
Non-Road Mobile	17.89	17.89
On-Road Mobile	1.61	1.61
Marine Vessels	94.06	14.11
Total	156.72	76.77

TABLE 3—NITROGEN OXIDE EMISSIONS FROM POINT, AREA AND MOBILE SOURCES ON ST. JOHN, VIRGIN ISLANDS

[Tons per year]

Source sector	Baseline 2002	2018 (With measures for RPG)
Point	477.66	477.66
Area	3.69	3.69
Non-Road Mobile	2.07	2.07
On-Road Mobile	25.03	25.03
Marine Vessels	318.23	63.65
Total	826.68	572.1

TABLE 4—DIRECT EMISSIONS OF PARTICULATE MATTER FROM POINT, AREA AND MOBILE SOURCES ON ST. JOHN, VIRGIN ISLANDS

[Tons per year]

Source sector	Baseline 2002	2018 (With measures for RPG)
Point	34.33	34.33
Area	38.32	38.32
Non-Road Mobile	1.93	1.93
On-Road Mobile	0.73	0.73
Marine Vessels	8.57	1.28
Total	83.88	76.59

Other emission changes in the FIP are from the effects of the consent decree with HOVENSA, whose impact is in the following table:

TABLE 5—EMISSIONS FROM HOVENSA IN TONS PER YEAR

	Sulfur oxides	Nitrogen oxides	Particulate matter
HOVENSA Base 2002	12,778	26,362	2,207
HOVENSA Future 2018	9,318	21,331	2,192

EPA used emission changes in Tables 2 through 5 with air quality models to project that 2018 visibility on the 20% worst days in the Virgin Islands National Park Class I area would be improved by 0.16 dv based on application of these controls. The uniform rate of progress goal is 1.48 dv for the period ending in 2018. As a result, these measures are likely to fall short of achieving the reasonable progress goal for 2018 in the Virgin Islands National Park. However, since a large portion of the reductions needed to meet the calculated background visibility in 2064 includes the impact of Saharan Dust and sea salt, which cannot be controlled under this program, the difficulty of achieving interim reasonable progress goals is apparent. EPA proposes that the reasonable measures will help improve visibility in the Virgin Islands National Park Class I area for the first round of the regional haze plan for the Virgin Islands.

2. Reasonable Progress Goals

In determining if reasonable progress is being made, states, or EPA in the case of this FIP, are required to consider the following factors established in section 169A of the Act and in our Regional Haze Rule 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 (''the four RP factors''). Once these factors have been considered, the typical method for determining if a state is making reasonable progress is to use meteorological and air quality computer models to predict the visibility at Class I areas for the end of the planning period (2018). Those modeling results are then assessed to ensure that visibility is not degrading on the best days and that it is improving on the worst days at a reasonable rate, taking into consideration the relevant statutory factors, as well as the base period visibility conditions and the goal of zero anthropogenic visibility impairment by 2064.

In the case of the Virgin Islands, though, a different method of determining reasonable progress is required. As explained in this proposal, the dominant cause of visibility impairment at the Virgin Islands' Class I area is international transport of Saharan Dust and volcanic ash from Montserrat. However, because the Saharan Dust and volcanic eruptions vary greatly from year to year with no discernible pattern, it is impossible to predict future emissions. As a result, there is little value in attempting to model visibility at the Class I area in 2018. The goal of this FIP therefore is to evaluate and remedy the causes of reduced visibility due to human sources.

i. Identification of Pollutants for Reasonable Progress

EPA has evaluated the particulate pollutants (ammonium sulfate, ammonium nitrate, organic carbon (OC), elemental carbon (EC), fine soil, coarse mass (CM), and sea salt) that contribute to visibility impairment at the Virgin Islands Class I Federal area. The largest contributor to haze in the Virgin Islands is coarse mass where all particles are larger than 2.5 microns, which accounts for 36 percent of total interference with visibility on the twenty percent haziest days at the Virgin Islands National Park. The next largest contributor is sea salt at 20 percent; then sulfate at 19 percent; soils were the fourth largest contributor at 13 percent.

There is nothing to be done about the portion of light extinction attributable to sea salt, as it is entirely from sea spray generated by wave action and winds. The days with the highest contributions to reduced visibility have the highest amounts of coarse particulates and fine soil, which indicate the presence of Saharan Dust. The sources of coarse mass are difficult to document because of emission inventory limitations associated with natural sources and uncertainty of fugitive (windblown) emissions. Because of the difficulty in attributing the sources of visibility impairment for this pollutant, EPA has determined that it is not reasonable in this planning period to recommend emission control measures for coarse mass. Similarly, because fine soil appears to be primarily attributable to international transport of Saharan Dust, EPA has determined that it is not reasonable in this planning period to recommend emission control measures for fine soil. Contributions of coarse mass and fine soil to visibility impairment, and their emissions sources, and potential control measures, should be addressed in future Regional Haze plan updates. Based on the above evaluation, EPA has determined that the first Regional Haze Plan RP evaluation should focus primarily on significant human sources of SO_2 (sulfate precursor) and NO_X (nitrate precursor).

ii. Determining Reasonable Progress Through Island-Specific Emissions Inventories

Due to the difficulty of modeling to project visibility at the Virgin Islands Class I area in 2018, EPA is focusing its reasonable progress analysis on reducing anthropogenic emissions of visibility-impairing pollution. The key anthropogenic pollutants of concern are SO_2, PM, and NO_X. We looked at trends in emissions of anthropogenic SO_2 and NO_X in order to judge if reasonable progress is being achieved.

Rather than use a full statewide inventory to judge reasonable progress, we focused on the inventory for the island of St. John, where the Class I area is located, and other major sources located in the Virgin Islands. As discussed in this proposal, our analysis indicates that most emissions do not significantly impair visibility at the Class I areas due to the prevailing winds. Prevailing winds at St. John are from the east to the west. The Class I area is east and north of St. Thomas and St. Croix, respectively. Therefore, these trade winds tend to transport pollution from St. Thomas and St. Croix away from the Class I area. In addition, modeling performed to estimate the visibility impact of currently operating individual sources of pollution indicates that even very large sources in the Virgin Islands have relatively small visibility impacts on the Class I area.

In developing the 2018 reasonable progress goal, and determining emission reductions that would help reduce emissions that impair visibility, EPA reviewed present and potential actions that would reduce visibility-impairing emissions between 2000 and 2018. Based on EPA's review, we are proposing to use the following reasonable measures to improve

visibility in the Virgin Islands National Park Class I area:

- U.S. Caribbean Emission Control Area for use of lower-sulfur oil in ocean vessels and large ships.
- Emission reductions from the HOVENSA Consent Decree.

U.S. Caribbean Emission Control Area

The United States Government, together with Canada and France, established the North America Emission Control Area (ECA) under the auspices of Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL Annex VI), a treaty developed by the International Maritime Organization. The ECA was amended to include the designated waters around Puerto Rico and the U.S. Virgin Islands. This ECA will require use of lower sulfur fuels in ships operating within 50 nautical miles from the territorial sea baselines of the included islands. Beginning in 2015, fuel used by all vessels operating in these areas cannot exceed 0.1 percent fuel sulfur (1,000 ppm). This requirement is expected to reduce PM and SO_X emissions by more than 85 percent. Beginning in 2016, new engines on vessels operating in these areas must use emission controls that achieve an 80 percent reduction in NO_X emissions. While these reductions are not enforceable as part of this FIP, EPA expects them to occur and they will be included in the reductions expected in the period through 2018.

HOVENSA Consent Decree

As discussed in greater detail in the section which discusses the BART determinations, HOVENSA, L.L.C. (HOVENSA) is a petroleum refinery located in St. Croix. In June 2011, EPA and HOVENSA entered into a Consent Decree (CD) to resolve alleged Clean Air Act violations at the refinery. The CD requires HOVENSA, among other things, to achieve emission limits and install new pollution controls pursuant to a schedule for compliance. The measures required by the CD are expected to reduce emissions of NO_X by 5,031 tons per year (tpy) and SO_2 by 3,460 tpy.

In January 2012, HOVENSA announced the refinery would shut down operations and become an oil storage terminal. At this time, HOVENSA has retained its air permits and remains subject to the CD. Since HOVENSA has retained its permits, EPA proposes to determine the emission limitations, pollution controls, schedules for compliance, reporting, and recordkeeping provisions of the HOVENSA CD constitute a long term strategy and, therefore, can be used to address the reasonable progress provisions of 40 CFR 51.308(d)(1). While EPA's modeling analysis to estimate the visibility impact of currently operating individual sources of pollution indicates that even very large sources in the Virgin Islands have relatively small visibility impacts on the Class I area, HOVENSA's modeled impact of more than 1 deciview indicates that HOVENSA impairs visibility in the Class I area on St. John, which leads us to determine that the HOVENSA CD contains existing reasonable measures that can assist in improving visibility at the Class I area. Should the existing federally enforceable HOVENSA CD be modified, EPA will reevaluate, and if necessary, revise the FIP after public notice and comment.

In addition, EPA is proposing to require HOVENSA to notify EPA 60 days in advance of startup and resumption of operation of refinery process units at the HOVENSA, St. Croix, Virgin Islands facility. EPA proposes that HOVENSA also provide a complete analysis of reasonable measures, consistent with EPA's Regional Haze requirements, if it resumes refinery operations. EPA will revise the FIP as necessary, after public notice and comment, in accordance with regional haze requirements including the ''reasonable progress'' provisions in 40 CFR 51.308(d)(1).

EPA proposes to determine that these measures are the reasonably available measures that can assist in improving visibility in the Virgin Islands National Park Class I area.

iii. Reasonable Progress Goals—2018 Visibility Projections

As explained above, there is no modeling available for this planning period that can reliably predict the change in visibility by 2018 due to changes in the emission inventory for all sources (shipping, mobile sources, point sources, etc.) in the Virgin Islands.[5] In the absence of reliable visibility modeling for 2018, EPA is using the island-specific inventories and a post-control emission inventory to judge whether reasonable progress is being made.

In order to show how the future emission changes may affect the aerosol levels in the Virgin Islands National Park Class I area, EPA estimated the effect that the changes in the island-specific inventories for NO_X, SO_2 and PM will have on the visibility in the National Park. The details of this analysis are discussed in the FIP and the modeling is described in the contractor's report in the Docket.

At the Virgin Islands National Park, the projected visibility for 2018 post control case is slightly better due to the emission reductions anticipated by EPA. Visibility on the worst twenty percent days is improved by 0.16 dv and there is no change in visibility on the twenty percent best days.

iv. Visibility Improvement Compared to URP

The amount of improvement needed to achieve the URP for 2018 at the Virgin Islands National Park is 1.46 dv. Based on the projections of visibility, discussed above, the amount of improvement by 2018 would be 0.16 dv. Therefore, the URP will not be met in the Virgin Islands National Park. Based on our decision on the lack of other reasonable emission controls available for the Regional Haze FIP, we propose to determine that the amount of controls EPA is anticipating by 2018 is the reasonable progress that can be attained in the Virgin Islands.

v. Interstate Consultation Requirement

Pursuant to 40 CFR 51.308(d)(3)(i), if a state has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal area located in another state or states, each of the relevant states must consult with the other(s). Since the Virgin Islands are about 1,200 miles from the next nearest Class I area—the Everglades in Florida—we propose to determine that emissions from the Virgin Islands are not reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal area located in another state or states. Because of the distance from the continental United States and the lack of impact modeled from a representative major source in Puerto Rico, we also propose to determine that no emissions from any other state are reasonably anticipated to contribute to visibility impairment in the Virgin Islands' mandatory Class I Federal area.

The Regional Haze Rule also requires any state that has participated in a regional planning process, to ''ensure it has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process'' and to demonstrate the technical basis for this apportionment. 40 CFR 51.308(d)(3)(ii) and (iii). Since the Virgin Islands was not included in any regional planning organizations, there is no obligation for

[5] As described above, there is acceptable modeling for point sources for the BART and the reasonable progress analysis for point sources.

emission reductions on the part of the Virgin Islands. Therefore, we propose to determine that no additional emissions reductions are necessary in the Virgin Islands to meet the progress goal for any mandatory Class I Federal area outside of the Virgin Islands.

vi. Identification of Anthropogenic Sources of Visibility Impairment

Pursuant to 40 CFR 51.308(d)(3)(iv), states are required to identify all anthropogenic sources of visibility impairment considered in developing the long-term strategy, including major and minor stationary sources, mobile sources, and area sources. As explained in section III.C above, we have considered each of these categories in developing our long-term strategy.

vii. Emissions Reductions Due to Ongoing Air Pollution Programs

Our LTS incorporates emission reductions due to ongoing air pollution control programs.

Prevention of Significant Deterioration Rules

One of the primary regulatory tools for addressing visibility impairment from industrial sources under the Act is the Prevention of Significant Deterioration (PSD) program. The PSD requirements apply to new major sources and major sources making a major modification in attainment areas. Among other things, the PSD permit program is designed to protect air quality and visibility in Class I Areas by requiring best available control technology and involving the public in permit decisions. EPA has promulgated a PSD FIP for the Virgin Islands to address the Act's PSD requirements (40 CFR 52.2779(b)). EPA does new source permitting for the Virgin Islands, according to the procedures in the PSD FIP, including implementing requirements for input from the relevant FLM and considering potential visibility impacts to Class I areas from new major stationary sources or major modifications of existing major stationary sources. See 40 CFR 52.21(p)(1).

Reasonably Attributable Visibility Impairment Rules

EPA has promulgated a FIP for the Virgin Islands, which incorporates the provisions of 40 CFR 52.26, 52.29, to address RAVI in the Virgin Islands. See 40 CFR 52.2781. As part of its review of new sources for impairment of visibility at the Class I area in the Virgin Islands, EPA is responsible for determining if sources have a reasonably attributable impairment to visibility in the Class I area.

On-going Implementation of Federal Mobile Source Rules

Mobile source NO_X and SO_2 emissions are expected to decrease in Virgin Islands from 2000 to 2018, due to several existing Federal mobile source regulations. However, we have not quantified these reductions due to uncertainties in the composition of the fleet, use of fuels and vehicle turnover, as compared to EPA's assumptions in our mobile emissions models.

Measures To Mitigate the Impacts of Construction Activities

Potential sources of emissions from construction activities include exhaust from fuel-burning equipment on the site; vehicles working on the site, delivering materials, and hauling away excavate; employee vehicles; and fugitive dust from exposed earth, material stockpiles, and vehicles on roadways, especially unpaved site accesses. These activities can result in emissions of NO_X, SO_2, particulate matter (PM_{10} and $PM_{2.5}$ from engine exhaust and as fugitive dust from roadways and material handling), and primary organic aerosols.

The VIDPNR regulates emissions of air pollutants, including construction emissions, and EPA will work with the VIDPNR to determine if local regulations and enforcement can help reduce pollutants that contribute to regional haze in the National Park.

TABLE 6—REASONABLE PROGRESS GOALS AND PROJECTED FUTURE VISIBILITY FOR THE VIRGIN ISLANDS NATIONAL PARK

	Baseline visibility (2000–2004)	Natural background conditions for 2064	Improvement to reach reasonable progress goal for 2018	2018 Projected improvement
20% Worst Days	17.02	10.68	1.48	0.16
20% Best Days	8.54	4.41	0.96	0.00

(All values expressed as deciviews—lower deciviews means better visibility.)

3. BART

BART is an element of EPA's LTS, as well as a requirement to evaluate controls for older sources that affect Class I areas, for the first implementation period. The BART regional haze requirement consists of three steps: (a) Identification of all the BART-eligible sources; (b) an assessment of whether the BART-eligible sources are subject to BART; and (c) the determination of the BART controls.

i. BART-Eligible Sources in the Virgin Islands

The first component of a BART evaluation is to identify all the BART eligible sources within the United States Virgin Islands (''Virgin Islands'' or ''Territory''). While the Virgin Islands' Department of Planning and Natural Resources (VIDPNR), the Territory's environmental agency, did not submit a SIP, EPA's evaluation process of identifying BART-eligible sources included a review of Title V permits, a review of Title V applications received from VIDPNR, and direct communications with HOVENSA, LLC, one of the BART-eligible sources. To establish which facilities are BART-eligible, EPA evaluated eligibility criteria for combustion and other process units at the following eight sources throughout the Territory:

- HOVENSA, LLC (St. Croix)
- Three of the Virgin Islands Water and Power Authority (VI WAPA) facilities—one on each of the islands (St. Croix, St. Thomas and St. John)
- St. Croix Renaissance Group, LLLP (St. Croix)
- Wyndham Sugar Bay Beach Club & Resort (St. Thomas)
- Divi Carina Bay Hotel (St. Croix)
- Buccaneer Hotel (St. Croix)

EPA identified three of the eight sources, including multiple combustion or process units at each source, as BART-eligible. The three BART-eligible sources identified by EPA as potentially impacting the Class I area, summarized in Table 7, met the following criteria to be classified as BART-eligible:

- One or more emissions units at the facility are within one of the 26 categories listed in the BART Guidelines (70 FR 39104, 39158; July 6, 2005);
- The emission unit(s) began operation after August 6, 1962, and were still in existence on August 7, 1977;
- Potential emissions of SO_2, NO_X, and PM_{10} from subject units are 250 tons or more per year.

These criteria are in section 169A(b)(2)(A) of the Act, codified in 40 CFR part 51, Appendix Y. None of the remaining five sources met these criteria and therefore were removed from consideration for BART review.

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Table 7. BART-Eligible Facilities in the Virgin Island Identified by the EPA

Facilities	Units	BART Source Category	Location
VI WAPA	2 boilers and 2 combustion turbines	Fossil fuel-fired steam electric plant of > 250 mm BTU/hr	St. Thomas
VI WAPA	2 boilers	Fossil fuel-fired steam electric plant of > 250 mm BTU/hr	St. Croix
HOVENSA	8 boilers	Petroleum Refinery	St. Croix
	9 combustion turbines		
	64 process heaters		
	11 reciprocating gas compressors		
	1 tail gas treatment unit		
	3 tail gas incinerators		
	5 flares		
	water intake pumps and desalination water pump		

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The BART Guidelines recommend addressing SO_2, NO_X, and PM_{10} as visibility-impairment pollutants. The Guidelines note that states can decide whether to evaluate VOC or ammonia emissions. EPA is not developing additional strategies for VOC or ammonia emissions in its FIP. EPA proposes to determine that the lack of tools available to estimate emissions and subsequently model VOC and ammonia effects on visibility inhibits EPA from addressing BART for these pollutants and that SO_2, NO_X, PM_{10}, and $PM_{2.5}$ are the pollutants reasonably anticipated to contribute to visibility impairment to target under BART.

ii. Sources Subject to BART

The second component of the BART evaluation is to identify those BART eligible sources that may reasonably be anticipated to cause or contribute to visibility impairment at any Class I area, i.e., those sources that are subject to BART. The BART Guidelines allow us to consider exempting some BART-eligible sources from further BART review because a source may not reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area. Consistent with the BART Guidelines, the EPA, through the use of a contractor, performed dispersion modeling to assess the extent of each BART-eligible source's contribution to visibility impairment at the Class I area and we propose to rely on that modeling described below.

Modeling Methodology

The BART Guidelines provide that we may use the CALPUFF [6] 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 or contribute to impairment of visibility in Class I areas, *i.e.,* ''is subject to BART.'' The Guidelines state that we find CALPUFF is the best regulatory modeling application currently available for predicting a single source's contribution to visibility impairment (70 FR 39162, July 6, 2005). The BART Guidelines also recommend that a modeling protocol be developed for making individual source attributions, which in this case is the EPA-approved workplan developed by the contractor. To determine whether each BART-eligible source has a significant impact on visibility, we propose to use the CALPUFF modeling to estimate daily visibility impacts above estimated natural conditions at the Class I area, which is the Virgin Islands National Park, covering much of St. John as well as Hassel Island near St. Thomas. There are no other Class I areas within 300 kilometers (km) of any BART-eligible facility in the Virgin Islands. Emissions were modeled with four years worth of meteorological data, from 2007 through 2010. We used these years because more meteorological data were available and the output provided from the modeling was closer to the actual monitored data than the period 2001 to 2004. The modeling evaluated the impact of three BART sources on the Class I area. EPA believes that this modeling provides a reasonable estimate of daily visibility impacts above estimated natural conditions at the Class I area. Therefore, we propose to use the results of this CALPUFF modeling to determine whether each BART-eligible source has a significant impact on visibility.

Contribution Threshold

For the 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 39161, July 6, 2005). 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 or EPA should ''consider the number of emissions sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts.'' *Id.* The Guidelines affirm that states and EPA are free to use a lower threshold if it can be concluded that the location of a large number of BART-eligible sources in proximity to a Class I area justifies this approach.

EPA proposes to follow the BART Guidelines for determining which sources are subject to BART for the Virgin Islands FIP. EPA took into consideration that the Virgin Islands BART sources only affect one Class I area, so numerous small impacts at many Class I areas will not occur. With only three BART sources, the situation is much different than in the eastern United States where over one hundred sources can have overlapping plumes that make a larger impact on several Class I areas (70 FR 39121, July 6, 2005). As shown in Table 8, EPA proposes to exempt two of the three BART-eligible sources in the Territory from further review under the BART requirements. The visibility impacts attributable to each of the VIWAPA sources is very low (at or less than 0.1 deciviews). Our proposed approach to contribution is to capture any source responsible for a major visibility impact, while excluding other sources with very small impacts.

Sources Identified by EPA as BART–Eligible and Subject to BART

The results of the CALPUFF modeling are summarized in Table 8. EPA is proposing that the VIWAPA facilities not be subject to BART because the demonstrated impacts are very low at all Class I area receptors. EPA proposes that the HOVENSA facility is subject to BART because of the high demonstrated impacts at receptors in the Class I area.

TABLE 8—INDIVIDUAL BART-ELIGIBLE SOURCE VISIBILITY IMPACTS ON VIRGIN ISLANDS CLASS I AREA

Facility and location	Class I area and locations of modeling receptor	Average 4-year 98th percentile visibility impact (deciviews)	Subject to BART?
VI WAPA	St. John	0.06	No.
St Thomas	Hassel Island, St. Thomas	0.04	

[6] 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/calpuff/calpuff1.htm.*

TABLE 8—INDIVIDUAL BART-ELIGIBLE SOURCE VISIBILITY IMPACTS ON VIRGIN ISLANDS CLASS I AREA—Continued

Facility and location	Class I area and locations of modeling receptor	Average 4-year 98th percentile visibility impact (deciviews)	Subject to BART?
VI WAPA	St. John	0.09	No.
St. Croix	Hassel Island, St. Thomas	0.10	
HOVENSA	St. John	1.91	Yes.
St. Croix	Hassel Island, St. Thomas	2.35	

iii. BART Evaluations for Sources Identified as Subject to BART by EPA

The third and final component of a BART evaluation is making BART determinations for all BART subject sources. In making BART determinations, section 169A(g)(2) of the Act requires that states consider the following factors: (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 that may reasonably be anticipated to result from the use of such technology. However, a source that implements the maximum feasible level of control for its emissions has met the BART requirements, and no further analysis is needed. Conversely, a source that limits its emissions via an enforceable permit limit, or shuts down and surrenders its permits, no longer needs to be subject to BART review.

EPA determined that HOVENSA is subject to BART review. The following summarizes EPA's BART analyses and evaluation for each of the HOVENSA units listed in Table 7 that are subject to BART. For further details the reader is referred to EPA's BART analyses contained in the FIP, located in the docket for this proposal at EPA's Web site at *www.regulations.gov.*

BART Determinations for HOVENSA

a. Facility Description and Current Status

HOVENSA is a petroleum refinery located in St. Croix, U.S. Virgin Islands. Operations began in 1966 but in October 1998, the Amerada Hess Corporation and Petroleos de Venezuela, S.A. formed a new corporation, HOVENSA, L.L.C. (HOVENSA) which acquired ownership and operational control of the St. Croix refinery. HOVENSA has a design capacity of 545,000 barrels of crude oil per day, the majority of which is received from Venezuela.

In June 2011, EPA and the U.S. Department of Justice (DOJ) entered into a consent decree (CD) requiring HOVENSA to pay a civil penalty and requiring the implementation of new pollution controls that would help protect the public health and resolve alleged Clean Air Act violations at the St. Croix refinery. The alleged violations cover emissions of SO_2, NO_X, VOCs and benzene from the Fluidized Catalytic Cracking Unit (FCCU), refinery heaters, boilers, generating combustion turbines, compressor engines, flares, sulfur recovery units and process units related to VOC and benzene emissions. EPA estimates that for the affected process heaters, boilers, generating turbines, and compressor engines, the cumulative reduction in NO_X emissions, attributable to the CD, which are defined there as ''Qualifying Controls'' are as follows: 1,079 tpy by June 2015, 3,663 tpy by June 2016 and 4,744 tpy by June 2019.[7] Also, EPA estimates that for the affected FCCU, FCCU catalytic regenerator, boilers, process heaters, generating combustion turbines, sulfur recovery plants, and flares, the reduction in SO_2 emissions, attributable to the CD is 3,460 tpy. The CD requires SO_2 reductions from the flares within the 2018–2021 timeframe whereas SO_2 reductions for other units are to be implemented within the period of 2011–2014. A copy of the CD is included in the Docket. For further information the reader is referred to *http://www.epa.gov/compliance/resources/cases/civil/caa/hovensa.html.*

On January 18, 2012, HOVENSA announced the refinery on St. Croix would shut down operations and become an oil storage terminal. Currently, HOVENSA has shutdown all refinery operations except for some process unit cleanout operations. HOVENSA is still finalizing intermediate and long term plans for operation of the bulk storage terminal to determine what utilities will continue to be needed. In the meantime, HOVENSA has retained its air permits and remains subject to the CD. Since HOVENSA has retained its permits, EPA evaluated BART for HOVENSA's BART-eligible sources.

b. BART Analysis

Eight Boilers

HOVENSA owns and operates nine steam boilers that are capable of combusting either refinery fuel gas (RFG) or No. 6 fuel oil and the heat input to the boilers is in the range of 205 to 405 mm BTU/hr. One of the boilers (Boiler 10) was constructed in 1999 and therefore is not BART-eligible. EPA has determined there are eight boilers subject to BART. SO_2 emissions are controlled by a permit limiting the sulfur content of No. 6 fuel oil to 0.50% or 1.0% depending upon wind conditions as defined in the permit. In addition, the June 2011 CD will lower SO_2 emissions by requiring that the combustion of RFG by the boilers, containing hydrogen sulfide (H_2S), meet the requirements of the New Source Performance Standards (NSPS) part 60, Subparts J and Ja. The June 2011 CD requires the facility to lower the sulfur content of No. 6 fuel oil to 0.55% maximum, 0.50% annually, and to a low limit of 0.30% depending upon wind conditions as defined in the CD. There are no existing controls for NO_X and PM emissions from the BART-eligible boilers.

For control of SO_2, NO_X and PM emissions, based upon EPA's analysis, EPA is proposing that current operations represent BART for each of the boilers subject to BART. For SO_2 and PM control, EPA's contractor evaluated Duct Injection and Fabric Filters (DIFF) using lime as the alkaline reagent. DIFF is a semi-wet flue gas desulfurization (FGD) process. The fabric filter is the PM control device. EPA has determined that the DIFF controls evaluated for the boilers subject to BART are not cost effective. EPA determined that the cost effectiveness for the eight boilers subject to BART varied from about $19,100 to $39,600 per ton of SO_2 and PM reduced, which is too costly to be cost effective per ton of reduced emissions. In addition, it is EPA's opinion that if maximum controls had been evaluated, such as lime or

[7] See Appendix A of the CD for a list of affected sources: heaters and boilers greater than 40 mm BTU/hour, generating turbines and compressor engines.

limestone wet FGD, the cost effectiveness would be even higher than for the DIFF controls evaluated. Therefore, EPA determines that for SO_2 and PM controls, current operation is considered as BART.

For control of NO_X emissions, EPA's contractor evaluated selective non-catalytic reduction (SNCR) using ammonia as the reagent. EPA has determined that implementation of SNCR controls for boilers subject to BART are cost effective. The actual cost effectiveness for the boilers is in the range of about $710 to $860 per ton of NO_X removed. As summarized in Table 8, the visibility impact (98th percentile, 4 year average) of all BART-eligible sources from HOVENSA in the Class I area at St. John is 1.91 dv for all pollutants. EPA further analyzed the contribution of various chemical species and components on the visibility impacts and has established that the contribution of NO_X compounds is about 5% which would be equivalent to 0.09 dv visibility impact at St. John from all HOVENSA units subject to BART, including the 8 boilers subject to BART. Since the visibility impact due to NO_X emissions from all HOVENSA units subject to BART is only about 0.09 dv, EPA proposes that the implementation of any NO_X controls (even SNCR or selective catalytic reduction (SCR)) would not have any significant visibility impact on the Class I area in the Virgin Islands and therefore EPA proposes to determine that current operation of the boilers subject to BART is considered BART for controlling NO_X emissions. Also, as discussed in the Reasonable Progress Goals section, EPA is proposing to require HOVENSA to provide a complete analysis of reasonable measures, if it resumes refinery operations.

Combustion Turbines

HOVENSA owns and operates eleven combustion turbines that are capable of combusting two or more of the following fuel combinations: refinery fuel gas (RFG), liquefied petroleum gas (LPG) and distillate oil. Two of the turbines were constructed in 1993 and 2009 and are therefore not BART-eligible. EPA has determined nine turbines are subject to BART. SO_2 emissions are controlled by limiting the fuel sulfur content as follows: distillate oil has a permit sulfur limit of 0.20%; LPG does not contain any sulfur; RFG sulfur content will be limited by the CD that requires the combustion of RFG with limits on the H_2S content in accordance with the NSPS requirements at subpart J or Ja. For NO_X, only one turbine has implemented control technology (steam injection). For PM, none of the turbines subject to BART have any controls.

For control of SO_2, NO_X and PM emissions, based upon EPA's analysis, EPA is proposing that current operations represent BART for each of the nine combustion turbines subject to BART. For SO_2 and PM control, as with the boilers discussed above, EPA's contractor evaluated Duct Injection and Fabric Filters (DIFF) using lime as the alkaline reagent. Based upon this analysis, EPA has determined that the DIFF controls evaluated for the nine combustion turbines are not cost effective. EPA determined that the cost effectiveness for the nine combustion turbines varied from about $122,300 (8 turbines) to $359,186 (1 turbine) per ton of SO_2 and PM reduced. The cost effectiveness values for the combustion turbines are much higher than for the boilers because the SO_2 emissions from the boilers are much higher (by a factor of 2 to 4 times) than from the turbines. Therefore, EPA determines that for SO_2 and PM controls, current operation is considered as BART.

For control of NO_X emissions from the turbines (as discussed above for the boilers) EPA's contractor evaluated selective non-catalytic reduction (SNCR) using ammonia as the reagent. EPA has determined, except for one turbine, that implementation of SNCR controls for eight turbines are cost effective. The actual cost effectiveness for the turbines is from about $1,750 to $1,890 per ton of NO_X removed. The one turbine where control is not cost effectiveness had a value of $9,500/ton, because the NO_X emissions are much lower due to NO_X controls installed on the turbine. Even though controls on eight of the nine turbines are cost effective, EPA has determined, for the same reasons discussed above for the boilers, that the visibility impact due to NO_X emissions is only about 0.09 dv from HOVENSA units subject to BART, and therefore the implementation of any new NO_X controls (even SNCR or SCR) would not have any significant visibility impact on the Class I area in the Virgin Islands. Therefore, EPA is determining that current operations of the nine turbines subject to BART are considered BART for controlling NO_X emissions.

Process Heaters

HOVENSA owns seventy process heaters of which twenty-one were shut down in early 2011. Of the seventy heaters, EPA has determined that sixty-four are subject to BART whereas the remaining six heaters were constructed after 1977 and are therefore not BART-eligible. Of the sixty-four process heaters subject to BART, fifteen are capable of combusting either RFG or No. 6 fuel oil whereas the remaining forty-nine heaters combust only RFG.

For the fifteen heaters capable of combusting No. 6 fuel oil, SO_2 emissions are controlled by permits limiting the sulfur content of No. 6 fuel oil to 0.50% or 1.0%. The June 2011 CD provides for lowering SO_2 emissions by establishing lower sulfur content of No. 6 fuel oil. In addition, the CD requires process heaters to meet the NSPS at part 60, either subpart J or Ja. None of the process heaters subject to BART have any controls for either NO_X or PM.

For control of SO_2, NO_X and PM emissions, based upon EPA's analysis, EPA is proposing that current operations represent BART for each of the sixty-four process heaters subject to BART. Although EPA's contractor determined cost effectiveness for only the boilers and combustion turbines, EPA has concluded that, for control of SO_2, NO_X and PM, there is sufficient information to make a determination that current operation represents BART for each of the process heaters subject to BART. For the SO_2 and PM BART determination, EPA notes that the SO_2 emissions, heat input and fuel type for each of the six largest process heaters is similar to that of most of the boilers which EPA determined BART control was not cost effective. It is EPA's judgment from this size comparison between the boilers and the six largest heaters that the cost effectiveness for the process heaters would be less than the cost effectiveness for the boilers, but still would result in determining additional controls as not being cost effective. The great majority of the remainder of the process heaters combust only RFG, have a smaller heat input (each by a factor of about 2.75 average) and have lower SO_2 emissions (each by a factor of about 7.8 on average) than the six larger heaters. Based upon this comparison, EPA would expect that controls for the remaining smaller process heaters will not be cost effective. Therefore, for SO_2 and PM emissions, EPA proposes to determine that the controls for all the process heaters subject to BART are not cost effective and that current operation is considered BART.

As discussed above for the boilers and combustion turbines, EPA determined that implementation of controls on NO_X emissions from all BART units at HOVENSA have an insignificant visibility impact on the Class I area and EPA is proposing to determine this is also true for the process heaters. Therefore EPA proposes that current operation of the process heaters subject

to BART is considered as BART for controlling NO_X emissions.

Other Significant HOVENSA Emission Units Subject to BART

HOVENSA owns and operates many other emission units that are subject to BART, including reciprocating gas compressors, tail gas treatment units, tail gas incinerators, flares, water intake pumps and a desalination water pump. For many of these units, actual emissions are negligible and PTE emissions are small. Also, the June 2011 CD contains additional compliance requirements for these units, such as meeting the NSPS emission limits under part 60 subparts J or Ja.

In all cases, EPA is proposing that current operations represent BART control for SO_2, NO_X and PM emissions for each of these sources subject to BART. It is EPA's judgment that any detailed cost analysis would conclude that implementation of any additional control technologies for controlling emissions of SO_2, NO_X or PM would have resulted in higher cost effectiveness values. Also, for the same reasons discussed above for the boilers, turbines and process heaters, EPA proposes that any reduction in NO_X emissions will not significantly improve visibility at the Class I area in the Virgin Islands and therefore current operation of each source subject to BART (without any new controls) represents BART for controlling NO_X emissions.

The reader is referred to the Regional Haze Virgin Islands FIP found in the Docket for this proposal, which contains a complete description of all of the HOVENSA emission units subject to BART, and the respective BART determinations.

While there is uncertainty at this time regarding future operations at HOVENSA, the CD does contain emission reductions and emission limit requirements which allow us to project that should HOVENSA resume operating as a refinery, it may be at a lower capacity factor, with much less sulfur. Although these resulting reductions in sulfur emissions are not enforceable requirements under this action, they suggest that SO_2 emissions from HOVENSA may decrease even in the absence of any BART requirements. This analysis also indicates that at least some of the units at HOVENSA may be coming to the end of their useful life and not operate again.

In summary, EPA's BART evaluation of the boilers, turbines, process heaters, and several other source categories that are subject to BART has determined that no additional control is consistent with BART, given the unique situation with HOVENSA and the unique visibility conditions in the Virgin Islands, and is proposing that current operations represent BART for HOVENSA. As such, EPA's Federal plan includes the establishment of emission limits for SO_2, NO_X and PM equivalent to the potential to emit (PTE) for each unit subject to BART, as derived from HOVENSA's permit limit conditions. EPA's Federal plan includes these PTE limits in the spreadsheets found in the Attachments to the FIP.

C. Consultation With Federal Land Managers

Under section 169A(d) of the Act, we are required to consult with the appropriate FLM(s) before proposing the Virgin Islands Regional Haze FIP. We must also include a summary of the FLMs' conclusions and recommendations in this notice. EPA has consulted informally with the FLMs throughout the development of the Virgin Islands Regional Haze FIP, including periodic updates during national teleconferences between EPA and the FLMs for the past several years. EPA also had two formal discussions with the FLMs as part of the consultation process. On May 28, 2008, EPA Region 2 held a teleconference with representatives of the National Park Service to brief them about our technical findings regarding regional haze in the Virgin Islands. Most recently, on May 9, 2012, EPA Region 2 held discussions about our final plans for addressing regional haze in the Virgin Islands. Following that discussion, EPA provided the National Park Service with copies of the BART analysis for their comments. EPA provided the FLMs with a copy of the proposed FIP just prior to publishing this proposal and acknowledges, as does the FLM, that any formal comments by the FLMs will be provided to EPA during the public comment period for this proposal.

In addition, 40 CFR 51.308(i)(4) specifies the regional haze FIP must provide procedures for continuing consultation with the FLMs on the implementation of the visibility protection program required by 40 CFR subpart P, including development and review of implementation plan revisions and 5-year progress reports, and on the implementation of other programs having the potential to contribute to impairment of visibility in mandatory Class I Federal areas. We intend to continue to consult with the FLMs regarding all aspects of the visibility protection program and we encourage the Virgin Islands government to do the same.

D. Periodic SIP Revisions and Five-Year Progress Reports

EPA commits to coordinate with the Virgin Islands government in order to revise and submit a regional haze implementation plan by July 31, 2018, to address the next ten years of progress toward the national goal in the Act of eliminating manmade haze by 2064, and to submit a plan every ten years thereafter, in accordance with the requirements listed in 40 CFR 51.308(f) of the Federal rule for regional haze. EPA's commitment includes continuing to consult with the FLMs on the implementation of section 51.308 and this FIP, including development and review of future SIP revisions and five-year progress reports, and on the implementation of other programs affecting the impairment of visibility in Class I areas. EPA commits to address the following in its Mid-Course Review report: address any uncertainties encountered during regional haze planning process; report on the progress of the BART analysis, determinations, and implementation; report on whether additional potential actions identified in its plan or through public comment, will be implemented and the status of those efforts. The reasonable progress report will evaluate the progress made towards the RPGs for the Virgin Islands National Park. EPA will work with the Virgin Islands territorial government to prepare and submit updates to the emission inventories, a mid-course review and a revised plan for the next ten-year period starting in 2018.

E. Coordinating Regional Haze and Reasonably Attributable Visibility Impairment (RAVI) LTS

EPA is the reviewing agency for the Prevention of Significant Deterioration (PSD) program in the Virgin Islands and is responsible for preventing new and modified sources from significantly impacting visibility in the Class I area of the Virgin Islands National Park on St. John and Hassel Islands. EPA will review the impact of proposed sources on visibility under 40 CFR 52.26 and 52.28, by implementing the PSD permit requirements for new or modified major sources of air pollutants located within 100 kilometers of the Class I area, or within a larger radius on a case-by-case basis, in accordance with all applicable Federal rules for review of the impacts on Class I areas. We propose to find that the Regional Haze FIP appropriately supplements and augments EPA's FIP for RAVI visibility provisions by updating the monitoring and LTS provisions to address regional haze. We

discuss the relevant monitoring provisions further below.

F. Agricultural and Forestry Smoke Management Techniques

40 CFR 51.308(d)(3)(v)(E) requires the Virgin Islands to consider smoke management techniques for the purposes of agricultural and forestry management in developing reasonable progress goals. Smoke Management Programs are only required when smoke impacts from fires managed for resource benefits contribute significantly to regional haze. The results of the emissions inventory indicate that emissions from agricultural, managed, and prescribed burning are very minor source categories. It is unlikely that fires for agricultural or forestry management cause large impacts on visibility in the Virgin Islands National Park. On rare occasions, smoke from major fires degrades the air quality and visibility in the Virgin Islands. However, these fires are generally unwanted wildfires that are not subject to smoke management programs. Since there is no evidence of agricultural burning contributing to haze at Class I areas, we propose to determine that no further controls on agricultural burning or forest fires are reasonable at this time.

G. Monitoring Strategy and Other Implementation Plan Requirements

40 CFR 51.308(d)(4) requires that the FIP 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. Consistent with EPA's monitoring regulations for RAVI and regional haze, EPA will rely on the IMPROVE network for compliance purposes, in addition to any RAVI monitoring that may be needed in the future. Therefore, we propose to find that we have satisfied the requirements of 40 CFR 51.308(d)(4).

The primary monitoring network for regional haze in the United States is the IMPROVE network. There is currently one IMPROVE site in the Virgin Islands, in the Virgin Islands National Park. IMPROVE monitoring data from 2000–2004 serves as the baseline for the regional haze program, and is relied upon in our proposed FIP. Data produced by the IMPROVE monitoring network are essential for the verification of the effects of changes in emissions on visibility in Class I areas and will be needed for preparing the 5-year progress reports and the 10-year SIP revisions, each of which relies on analysis of the preceding five years of data. EPA will continue to encourage the National Park Service to continue to operate and maintain the monitoring site in the Virgin Islands National Park, providing support as EPA deems appropriate.

V. What action is EPA proposing to take?

EPA is proposing a Federal Implementation Plan for Regional Haze for the Territory of the United States Virgin Islands. This FIP addresses progress toward reducing regional haze for the first implementation period ending in 2018. The proposed FIP includes emission reductions to begin the reasonable progress needed to achieve the overall objective of no man-made interference with visibility by 2064. The proposed FIP relies on emission reductions from existing emissions controls and programs currently in effect, and proposes to require HOVENSA to notify EPA in the event it resumes operation of the refinery process units and to provide an analysis for reasonable measures consistent with EPA's Regional Haze Guidelines. Thus, EPA is proposing a Regional Haze Plan to satisfy the requirements of the Act. EPA is taking this action pursuant to CAA sections 110(a), 301(a), 169A and 169B. EPA is soliciting public comments on the issues discussed in this document and will consider these comments before taking final action.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This proposed 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). The proposed Virgin Islands Regional Haze FIP requires implementation of existing emissions controls and emission reduction strategies on one facility and is not a rule of general applicability.

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Under the Paperwork Reduction Act, a ''collection of information'' is defined as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons* * *.''44 U.S.C. 3502(3)(A). Because the proposed FIP applies to just one facility, the Paperwork Reduction Act does not apply. See 5 CFR 1320(c).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 Office of Management and Budget (OMB) control number. The OMB control numbers for our regulations in 40 CFR are listed in 40 CFR part 9.

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 this proposed action on small entities, I certify that this proposed 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 existing Federal controls to meet the BART requirement for SO_2, NO_X, and PM emissions on specific units at one facility in the Virgin Islands. The net result of this FIP action is that EPA is proposing existing direct emission controls on selected units at only one facility. The facility in question is a large petroleum refinery that is not owned by a small entity, and therefore is not a small entity.

D. Unfunded Mandates Reform Act (UMRA)

This 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 1 year. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

The proposed Virgin Islands Regional Haze FIP does not have federalism implications. This action 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. In this action, EPA is fulfilling its statutory duty under CAA section 110(c) to promulgate a Regional Haze FIP following its finding that the Virgin Islands had failed to submit a regional haze SIP. 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

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 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 SO_2, NO_X, 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 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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 rule, if finalized, will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it limits 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.

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: June 14, 2012.

Judith A. Enck,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 CCC—Virgin Islands

2. In § 52.2781, add paragraph (d) to read as follows:

§ 52.2781 Visibility protection.

* * * * *

(d) *Regional Haze Plan for Virgin Islands National Park.*

(1) *Applicability.* This section addresses Clean Air Act requirements and EPA's rules to prevent and remedy future and existing man-made impairment of visibility in the mandatory Class I area of the Virgin Islands National Park through a Regional Haze Program. This section applies to the owner and operator of HOVENSA L.L.C. (HOVENSA), a petroleum refinery located on St. Croix, U.S. Virgin Islands.

(2) *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:

NO_X means nitrogen oxides.

Owner/operator means any person who owns, leases, operates, controls, or supervises a facility or source identified in paragraph (a) of this section.

PM means particulate matter.

Process unit means any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or a completed product. A single stationary source may contain more than one process unit, and a process unit may

contain more than one emissions unit. For a petroleum refinery, there are several categories of process units that could include: those that separate and/or distill petroleum feedstocks; those that change molecular structures; petroleum treating processes; auxiliary facilities, such as steam generators and hydrogen production units; and those that load, unload, blend or store intermediate or completed products.

SO_2 means sulfur dioxide.

Startup means the setting in operation of an affected facility for any purpose.

(3) *Reasonable Progress Measures.* On June 7, 2011, EPA and HOVENSA entered into a Consent Decree (CD) in the U.S. District Court for the Virgin Islands to resolve alleged Clean Air Act violations at its St. Croix, Virgin Islands facility. The CD requires HOVENSA, among other things, to achieve emission limits and install new pollution controls pursuant to a schedule for compliance. The measures required by the CD are expected to reduce emissions of NO_X by 5,031 tons per year (tpy) and SO_2 by 3,460 tpy. The emission limitations, pollution controls, schedules for compliance, reporting, and recordkeeping provisions of the HOVENSA CD constitute an element of the long term strategy and address the reasonable progress provisions of 40 CFR 51.308(d)(1). Should the existing federally enforceable HOVENSA CD be revised, EPA will reevaluate, and if necessary, revise the FIP after public notice and comment.

(4) *HOVENSA requirement for notification and four factor analysis.* HOVENSA must notify EPA 60 days in advance of startup and resumption of operation of refinery process units at the HOVENSA, St. Croix, Virgin Islands facility. HOVENSA shall submit such notice to the Director of the Clean Air and Sustainability Division, U.S. Environmental Protection Agency Region 2, 290 Broadway, 25th Floor, New York, New York, 10007–1866. HOVENSA's notification to EPA that it intends to start up refinery process units must include a complete analysis of reasonable measures needed to comply with regional haze requirements. EPA will revise the FIP as necessary, after public notice and comment, in accordance with regional haze requirements including the ''reasonable progress'' provisions in 40 CFR 51.308(d)(1). HOVENSA will be required to install any controls that are required by the revised FIP as expeditiously as practicable, but no later than 5 years after the effective date of the revised FIP.

[FR Doc. 2012–15463 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0168; FRL–9692–2]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to UAC Rule 401—Permit: New and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on April 17, 2008 and partially approve SIP revisions submitted by the State of Utah on September 15, 2006. The revisions contain new rules in Utah's Title 307 Rule 401 (Permit: New and Modified Sources). The intended effect of this action is to propose to approve the rules that are consistent with the Clean Air Act (CAA.) This action is being taken under sections 110 and 112 of the CAA.

DATES: Comments must be received on or before July 25, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0168, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: leone.kevin@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in **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 Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 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–2012–0168. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* 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 *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 *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, 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, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information
II. Background
III. What Authorities Apply to EPA's Proposed Action
IV. EPA's Analysis and Proposed Action on SIP Revisions
V. Summary of Proposed Actions
VI. Statutory and Executive Order Reviews

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 words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *HAP* mean or refer to Hazardous Air Pollutant.

(iv) The initials *MACT* mean or refer to Maximum Achievable Control Technology.

(v) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

(vi) The initials *NSR* mean or refer to New Source Review.

(vii) The initials *SIP* mean or refer to State Implementation Plan.

(viii) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

(ix) The initials *UAC* mean or refer to the Utah Administrative Code.

I. General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *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. Background

On September 20, 1999, the State of Utah submitted a renumbering and recodification of its Utah Administrative Code (UAC) rules within the Utah SIP. EPA took final action to approve portions of this submittal on February 13, 2006 (71 FR 7670). In that action EPA approved the recodification of R307–413–7 (Exemption from Notice of Intent Requirements for Used Oil Burned for Energy Recovery, previously found under R307–7–2 and 3). On September 15, 2006, the State of Utah again submitted a renumbering and recodification of its UAC rules within the Utah SIP which renumbered R307–413–7 to R307–401–14 (Used Oil Burned for Energy Recovery). We are proposing to approve this renumbering in this action.

On April 17, 2008, the State of Utah submitted a revision to R307–401–14 which changed the definition of ''Boiler.'' We are proposing to approve this definition change in this action.

On October 1, 1990, R307–6 (*De minimis* Emissions from Air Strippers and Soil Venting Projects) was approved into the Utah SIP. On August 14, 1998, EPA approved revisions to R307–6 (63 FR 43624). On January 8, 1999, Utah submitted substantive revisions to R307–6, which also renumbered R307–6 to R307–413–8 and R307–413–9. EPA did not act on this submittal. On September 15, 2006, Utah submitted revisions which moved R307–413–8 and R307–413–9 to R307–401–15 (Air Strippers and Soil Venting Projects) and R307–401–16 (De minimis Emissions from Soil Aeration Projects). Utah's January 8, 1999, submittal is superceded by the September 15, 2006, submittal. EPA is proposing to conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006, in this action.

All other portions of the September 15, 2006, submittal not addressed in this action will be addressed at a later date.

III. What Authorities Apply to EPA's Proposed Action

Section 110(l) of the CAA states, ''Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.''

The states' obligation to comply with each of the National Ambient Air Quality Standards (NAAQS) is considered as ''any applicable requirement(s) concerning attainment.'' A demonstration is necessary to show that this revision will not interfere with attainment or maintenance of the NAAQS, including those for ozone, particulate matter, carbon monoxide, sulfur dioxide, lead, nitrogen oxides or any other requirement of the Act.

The CAA at section 110(a)(2)(C) requires states to include a minor New Source Review (NSR) program in their SIP to regulate modifications and new construction of stationary sources within the area as necessary to assure the NAAQS are achieved. EPA's implementing regulations at 40 CFR 51.160–164 are intended to ensure that new source growth is consistent with maintenance of the NAAQS and 40 CFR 51.160(e) requires states to identify types and sizes of facilities which will be subject to review under their minor NSR program. For sources identified under 40 CFR 51.160(e), section 51.160(a) requires that the SIP include legally enforceable procedures that enable a state or local agency to determine whether construction or modification of a facility, building, structure or installation, or combination of these will result in a violation of applicable portions of the control strategy; or interference with attainment or maintenance of a national standard in the state in which the proposed source (or modification) is located or in a

neighboring state. Section 110(i) of the CAA specifically precludes states from changing the requirements of the SIP except through SIP revisions approved by EPA. SIP revisions will be approved by EPA only if they meet all requirements of section 110 of the CAA and the implementing regulations at 40 CFR part 51. See CAA section 110(l); 40 CFR 51.104.

EPA recognizes that, under the applicable Federal regulations, states have broad discretion to determine the scope of their minor NSR programs as needed to attain and maintain the NAAQS. The states have significant discretion to tailor minor NSR requirements that are consistent with the requirements of 40 CFR part 51. States may also provide a rationale for why the rules are at least as stringent as the 40 CFR part 51 requirements where the revisions are different from those in 40 CFR part 51. For example, states may exempt from minor new source review certain categories of changes based on *de minimis* or administrative necessity grounds in accordance with the criteria set out in *Alabama Power Co.* v. *Costle, 636 F.2d 323, 360–361* (D.C. Cir. 1979). *De minimis* sources are presumed not to have an impact and their emissions would not prevent or interfere with attainment of the NAAQS, even within nonattainment areas.

Since there are no ambient air quality standards for air toxics, the area's compliance with any applicable maximum achievable control technology (MACT) standards, as well as any Federal mobile source control requirements under CAA sections 112 or 202(l) would constitute an acceptable demonstration of noninterference for air toxics. A revision to the SIP cannot interfere with any federally mandated program such as a MACT standard (or related section 112 requirements).

IV. EPA's Analysis and Proposed Action on SIP Revisions

In this proposed rulemaking, we are proposing to approve the renumbering of R307–413–7 to R307–401–14 (Used Oil Burned for Energy Recovery) as submitted by the State of Utah on September 15, 2006, because this provision had been previously approved into the Utah SIP (71 FR 7670) and the revision does not contain substantive changes to the rule. We are also clarifying that R307–401–14(3) refers to the owner or operator of a boiler as described in R307–401–14(1).

We are proposing to approve changes to the definition of ''Boiler'' in R307–401–14(1) as submitted by the State of Utah on April 17, 2008, in this action. The current federally approved definition of ''Boiler'' in R307–413–7 references Utah's solid and hazardous waste definition of ''Boiler'' in R315–1–1 as it was defined in 40 CFR 260.10, as amended on July 1, 2002. Utah's current federally approved version of R315–1–1 incorporates by reference 40 CFR 260.10, as amended on July 1, 2008. Since there is no substantive difference between 40 CFR 260.10, as amended on July 1, 2002, and 40 CFR 260.10, as amended on July 1, 2008, we are proposing to approve this definition change in R307–401–14.

We are proposing to conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006, in this action. We are proposing to conditionally approve R307–401–15 because R307–401–15(3) allows for ''test or monitoring method approved by the executive secretary,'' which is director's discretion. Utah submitted a letter to EPA on February 24, 2012, committing to revise R307–401–15(3) to remove the executive secretary's discretion to approve alternate test or monitoring methods (see docket). Utah must submit a SIP revision to change or remove this language not later than one year after the date of final publication of this rulemaking. If, however, Utah does not submit such a revision within this timeframe, EPA's conditional approval of R307–401–15(3) will revert to a disapproval.

R307–401–15 and R307–401–16 allows all air stripper, soil venting and soil aeration projects to be exempt from notice of intent and approval order requirements if the estimated actual air emissions from volatile organic compounds from a given project are less than 5 tons per year (R307–401–9(1)(a)) and the level of any one hazardous air pollutant (HAP) or combination of HAPs is less than the levels listed in R307–410–4(1)(d) (Toxic Screening Levels and Averaging Periods). EPA has approved similar *de minimis* thresholds for criteria pollutants in past rulemakings: The State of Idaho's permit to construct regulations, which were approved final on January 16, 2003 (68 FR 2217); and the State of Montana's exclusion for *de minimis* changes, which were approved final on February 13, 2012 (77 FR 7531). R307–401–15 and R307–401–16 contain provisions which are smaller in nature and scope than the previously approved rulemakings, as they generally only apply to the remediation of underground storage tanks. EPA finds the revisions would not interfere with any applicable requirement concerning attainment of the NAAQS, rate of progress and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

A review of air stripper, soil venting and soil aeration projects from 2008–2010 which were exempted from notice of intent and approval order requirements under R307–401–15 and R307–401–16 show negligible criteria pollutant emissions (see docket). In addition, data from the Utah leaking underground storage tank program shows a significant decrease in the number of new cleanups initiated over the last 10 years (see docket). These provisions meet the requirements of 40 CFR 51.160 because they require prior written approval (R307–401–15(2), R307–401–16(1)) of the State and have testing requirements (R307–401–15(3)) to ensure that exempted projects do not exceed the *de minimis* thresholds as described in R307–401–9.

V. Summary of Proposed Actions

Based on the above discussion, EPA finds that the revisions are consistent with all CAA requirements. We are proposing to approve the renumbering of R307–413–7 to R307–401–14 (Used Oil Burned for Energy Recovery) as submitted by the State of Utah on September 15, 2006; changes to the definition of ''Boiler'' in R307–401–14(1), as submitted by the State of Utah on April 17, 2008; and conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 6, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: June 7, 2012.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

[FR Doc. 2012–15476 Filed 6–22–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 84

RIN 0920–AA38

[Docket No. CDC–2012–0009; NIOSH–258]

Open-Circuit Self-Contained Breathing Apparatus Remaining Service-Life Indicator Performance Requirements

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: As a component of its ongoing update of respirator certification standards under Part 84 and in response to a petition to amend 42 CFR 84.83(F), HHS proposes a revision to the current requirement for open-circuit self-contained breathing apparatus (OC–SCBA) remaining service-life indicators (indicators), which are devices built into a respirator to alert the user that the breathing air provided by the respirator is close to depletion. HHS intends to revise the current standard, employed by the National Institute for Occupational Safety and Health (NIOSH) located within the Centers for Disease Control and Prevention (CDC), to allow greater latitude in the setting of the indicator alarm to ensure that the alarm more effectively meets the different worker protection needs of different work operations. This revision sets a default service life at 25 percent of the rated service time and allows the indicator to be adjusted higher by the manufacturer, at the request of the purchaser.

DATES: Comments must be received by August 24, 2012.

ADDRESSES: You may submit comments, identified by HHS RIN 0920–AA38, by either of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket CDC–2012–0009.

• *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or *http://www.cdc.gov/niosh/docket/review/docket258/default.html.*

FOR FURTHER INFORMATION CONTACT: Jonathan Szalajda, NIOSH National Personal Protective Technology Laboratory (NPPTL), P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236, (412) 386–5200 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The preamble to this notice of proposed rulemaking is organized as follows:

I. Public Participation
II. Background
  A. Introduction
  B. Background and Significance
  C. Need for Rulemaking
  D. Public Meetings for Discussion and Comment
III. Summary of Proposed Rule
IV. Regulatory Assessment Requirements
  A. Executive Orders 12866 and 13563
  B. Regulatory Flexibility Act
  C. Paperwork Reduction Act
  D. Small Business Regulatory Enforcement Fairness Act
  E. Unfunded Mandates Reform Act of 1995
  F. Executive Order 12988 (Civil Justice)
  G. Executive Order 13132 (Federalism)
  H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)
  I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)
  J. Plain Writing Act of 2010
V. Proposed Rule

I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, arguments, recommendations, and data. Comments are invited on any topic related to this proposal. In addition, HHS invites comment specifically on the following question related to this rulemaking:

1. HHS proposes that the remaining service-life indicator (indicator) be set at 25 percent of the rated service time of the respirator, as a default setting, with the option for the setting to be adjusted higher by the manufacturer, at the discretion of the purchaser. Is 25 percent of the rated service time of the respirator an appropriate default setting for the indicator?

2. Should the rule specify an upper limit that would require that the indicator be set to alarm no earlier than a set amount, such as 50 percent of rated service time? Are there possible emergency or rescue scenarios for which

one would want an indicator to alarm at 50 percent or more of the rated service time?

Comments submitted should be titled ''Open-Circuit Self-Contained Breathing Apparatus Remaining Service-Life Indicator Performance Requirements, RIN 0920–AA38,'' and should identify the author(s), return address, and a phone number, in case clarification is needed. Electronic comments can be submitted to *http://www.regulations.gov.* Printed comments can be sent to the NIOSH Docket Office at the address above. All communications received on or before the closing date for comments will be fully considered by HHS.

All relevant comments submitted will be available for examination in the rule docket (a publicly available repository of the documents associated with the rulemaking). A complete electronic docket containing all comments submitted will be available at *http://www.regulations.gov;* comments will be available in writing by request. All comments received are included without change in the dockets, including any personal information provided.

II. Background

A. Introduction

Under 42 CFR Part 84, ''Approval of Respiratory Protective Devices'' (Part 84), NIOSH approves respirators used by workers in mines and other workplaces for protection against hazardous atmospheres. The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) require U.S. employers to supply NIOSH-approved respirators to their employees whenever the employer requires the use of a respirator.

B. Background and Significance

Employers rely on NIOSH-approved respirators to protect their employees from airborne toxic contaminants and oxygen-deficient environments. More than 3.3 million private sector employees in the United States wear respirators for certain work tasks. The most effective and reliable means of protecting workers from oxygen-deficient environments is to prevent their causes or entry into them by workers. However, it is not technologically or economically feasible in all workplaces and operations to reduce airborne concentrations of contaminants to safe levels and to prevent exposure to oxygen-deficient environments. In such cases, workers depend on respirators to protect them from asphyxiation or airborne contaminants that are known or suspected to cause acute and chronic health effects, such as heavy metal poisoning, acid burns, chronic obstructive pulmonary disease, silicosis, neurological disorders, and cancer.

Open-circuit self-contained breathing apparatus are used primarily by firefighters and other rescue workers to provide breathable air in an environment that may be immediately dangerous to life and health (IDLH). These respirators are characterized by a cylinder of compressed breathing air, which is inhaled by the user and then exhaled out of the system. OC–SCBA are required by HHS regulations to have a ''remaining service life indicator or warning device,'' [1] which is intended to alert users when the breathing air supply has been depleted to a certain percentage of breathing air available for use. The remaining service life indicator, referred to as a ''low-air alarm,'' or ''end-of-service-time indicator'' by various industries, is relied upon by rescuers to warn when they have begun to utilize their reserve supply of breathing air. The current HHS regulation requires that the indicator alarms when the rated service time of the respirator is reduced to within 20 to 25 percent.

C. Need for Rulemaking

In 2003, NIOSH received a petition from David Bernzweig of the Columbus (OH) Professional Firefighters International Association of Fire Fighters Local 67 requesting that the agency initiate rulemaking to change the provisions of paragraph § 84.83(f).[2] The current rule requires that the indicator alarm within the 20 to 25 percent range; stakeholders request that HHS eliminate the lower value (20 percent) and require the indicator to alarm no later than at 25 percent of rated service time. NIOSH considered the request and facilitated discussion among stakeholders (see Section II.D. below). The National Fire Protection Association (NFPA), which sets standards for personal protective equipment used in the fire service, initiated an effort in 2008 to develop consensus on the matter and recently decided to propose amending NFPA 1981: Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services [3] to require that the indicator alarm at 33 percent in its upcoming revision of the standard.

Studies conducted by NFPA have demonstrated that, while the number of structure fires in the United States has declined more than 50 percent between 1977 and 2002, the rate of traumatic firefighter deaths has increased in recent years.[4] A majority of those deaths (over 63 percent) are due to smoke inhalation or asphyxiation, and many are attributed to firefighters going deep into large structures, becoming caught, lost, or disoriented, and then subsequently running out of breathing air before being able to exit.[5] NFPA 1404, Standard for Fire Service Respiratory Protection Training, requires that firefighters leave the IDLH atmosphere before the indicator alarms, that is, before the individual begins to consume the respirator's reserve breathing air supply. While modern practice is for firefighters to practice ''air management,'' or allocate enough breathing air for entry, work, and exit,[6] many find maintaining situational awareness difficult.[7] Many still rely on the indicator alarm to tell them to begin their exit, which is problematic because fire departments are finding that allotting 20–25 percent of the breathing air supply to exit does not allow enough time for escape from a large structure.[8] If the firefighter becomes disoriented in the smoke, rescuers will have very little time to bring the individual out of the building unharmed.

OC–SCBA used in firefighting are certified by both NIOSH (under 42 CFR Part 84) and NFPA, under NFPA 1981: Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA)

[1] 42 CFR 84.71(a)(6).

[2] National Institute for Occupational Safety and Health, National Personal Protective Technology Laboratory, transcript of public meeting held December 2, 2008. Available at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-034-A/0034-A-120208-Transcript.pdf.* Last accessed October 25, 2011.

[3] NFPA 1981: Standard on open-circuit self-contained breathing apparatus (SCBA) for emergency services, Chapter 4. 2007 Edition.

[4] National Institute for Occupational Safety and Health, National Personal Protective Technology Laboratory, transcript of public meeting held December 2, 2008. Available at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-034-A/0034-A-120208-Transcript.pdf.* Last accessed October 25, 2011.

Fahy F. U.S. Fire Service fatalities in structure fires, 1977–2009. National Fire Protection Association. June 2010.

[5] Fahy F. U.S. Fire Service fatalities in structure fires, 1977–2009. National Fire Protection Association. June 2010.

[6] Bernocco S, Gagliano M, Phillips C, Jose P. Is your department complying with the NFPA 1404 air management policy? Fire Engineering 2008;161.

[7] E.g. see, City of Charleston, Post incident assessment and review team. Firefighter fatality investigative report: Sofa Super Store, 1807 Savannah Highway, Charleston, SC, June 18, 2007. Phase II Report. May 15, 2008.

[8] Marino D. Air management: Know your air-consumption rate. Fire Engineering. October 1, 2006.

for Emergency Services.[9] NFPA is proposing to increase the indicator alarm time in the 2013 edition of NFPA 1981 in order to provide the user with more reserve breathing air for self- or assisted-escape from the IDLH environment. Current NFPA standards require that the indicator ''meet the activation requirements of NIOSH certification,'' [10] which may result in indicator notification at less than 25 percent of cylinder volume. As discussed above, this may not allow an early enough warning that the user has begun depleting the respirator's reserve breathing air. The NFPA has decided to amend its standard to increase the indicator setting to 33 percent (+5/−0).[11]

HHS finds that revising § 84.83(f) to allow greater latitude with regard to setting the indicator alarm would not reduce the amount of protection afforded to firefighters and other OC–SCBA users. In fact, HHS believes that specifying a default setting of 25 percent and allowing respiratory protection program managers to request the indicator to be set at a certain value will result in a more meaningful alarm that will reduce firefighter fatalities and may offer greater protection for users in other industries.

D. Public Meetings for Discussion and Comment

NIOSH held a public meeting to discuss underlying issues and technical matters addressed in this proposed rule on December 2, 2008, at the Pittsburgh Hyatt Regency, Pittsburgh International Airport (73 FR 65860, November 5, 2008). The official transcript of this meeting as well as public comments are available on NIOSH Docket 34–A (See *http://www.cdc.gov/niosh/docket/archive/docket034A.html*). NIOSH had previously collected public comments on remaining service-life indicators in 2004 (See NIOSH Docket 34, *http://www.cdc.gov/niosh/docket/archive/docket034.html*). Most comments were generally supportive of the need to modify the indicator requirement. Those opposed to changing the requirement generally recommended that efforts to improve training in air management techniques should be pursued instead of changing this indicator requirement.

[9] NFPA 1981: Standard on open-circuit self-contained breathing apparatus (SCBA) for emergency services, Chapter 4. 2007 Edition.

[10] NFPA 1981: 6.2.3 (2007).

[11] Fahy RF, Fire Analysis and Research Division, National Fire Protection Association. ''U.S. Fire Service fatalities in structure fires, 1977–2009.'' June 2010.

III. Summary of Proposed Rule

This proposed change would establish a default setting of 25 percent, and allow purchasers to request that the manufacturer set the remaining service-life indicator alarm at a value appropriate for the purchaser's occupational needs. Although it is not required, purchasers may also have the indicator setting modified for already fielded OC–SCBA units by an authorized representative of the manufacturer. The amendment would also codify a long-standing NIOSH policy requiring the indicator to alarm continuously until the respirator's breathing air supply is depleted.

HHS recognizes that not all OC–SCBA users find that the current standard places workers in jeopardy. Accordingly, HHS finds it prudent to retain the higher value (25 percent) established by the current regulation as a default setting, which would allow respiratory protection program managers who would prefer not to make any changes to the OC–SCBA used in their occupational setting to maintain their status quo. The proposed amendment to § 84.83(f) would, however, allow managers who have determined that a higher set-point is warranted for their application the latitude to request a different value. Allowing managers to establish an earlier indicator alarm level would enable firefighters and incident commanders at structure fires involving substantial exit challenges to rely on the indicator alarm in emergency circumstances to warn that the reserve breathing air supply is being utilized. Allowing respiratory protection program managers to request that manufacturers set the indicator alarm at a certain value may also benefit workers in other industries that rely on OC–SCBA.

Alternatives Considered

While developing the proposed rule, HHS did not identify any acceptable alternatives to lifting the restriction created by the current regulation. We did, however, consider the appropriate value for the alarm, and the necessity for a single value or a range in which the alarm should sound. As discussed above, many OC–SCBA are used in occupational settings for which the current remaining service-life indicator setting of 25 percent has been integrated into user protocols without concern or incident. Different emergency and rescue uses are likely to be best served by different indicator alarm settings. For this reason, we did not find it appropriate to adopt the proposed NFPA standard, 33 percent, as the minimum alarm setting for all uses.

HHS also considered the possibility of allowing a ''user-adjustable'' alarm setting, but rejected that option because of the complexity of the remaining service-life indicator. Allowing respiratory program managers to adjust the settings in the field would require extensive training and due to the technical difficulties of this task would introduce a reliability (and hence safety) concern.

IV. Regulatory Assessment Requirements

A. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

This proposed rule is not being treated as a ''significant'' action under E.O. 12866. It would modify the settings for an indicator required by current regulation, as well as codify a long-standing policy of requiring that the indicator alarm continuously once it has begun. The current rule requires that a remaining service-life indicator alarm when the breathing air provided by an OC–SCBA reaches between 20 and 25 percent of its limit. The proposed rule would replace the range with a default value of 25 percent, which would allow facility managers to be able to request that the manufacturer set the indicator value at a higher limit than 25 percent of remaining breathing air. There are no costs and only benefits associated with this change: All approved OC–SCBA models have a remaining service-life indicator for which alarm limits are set during manufacturing; allowing respiratory protection program managers to specify that value (to be set by the manufacturer) if they find it necessary to do so will save lives by improving the respiratory protection of emergency personnel and other users and indirectly by increasing the likelihood that victims will be successfully rescued in emergency response operations.

The rule does not interfere with State, local, or tribal governments in the exercise of their governmental functions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each

agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. As discussed above, all OC–SCBA models are equipped with a remaining service-life indicator that will not require any expenditure of resources to set at the proposed alarm limit. This proposed rule will allow small organizations such as local fire departments to specify their desired indicator limit when purchasing new devices from the manufacturer. The Secretary of HHS has certified to the Chief Counsel, Office of Advocacy of the Small Business Administration, that this rule does not have a significant impact on a substantial number of small entities. Accordingly, no regulatory impact analysis is required.

C. Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on and to obtain OMB approval of any regulation that requires 10 or more people to report information to the agency or to keep certain records. This rule does not contain any information collection requirements; thus HHS has determined that the PRA does not apply to this rule.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS would report to Congress the promulgation of a final rule, once it is developed, prior to its taking effect. The report would state that HHS has concluded that the rule is not a ''major rule'' because it is not likely to result in an annual effect on the economy of $100 million or more.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this proposed rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by state, local or tribal governments in the aggregate, or by the private sector, adjusted annually for inflation. For 2011, the inflation-adjusted threshold is $136 million.

F. Executive Order 12988 (Civil Justice)

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The proposed amendment to an existing respirator approval standard would apply uniformly to all applicants. This proposed rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The proposed rule does 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.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this proposed rule on children. HHS has determined that the proposed rule would have no effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this proposed rule on energy supply, distribution, or use and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the proposed rule consistent with the Federal Plain Writing Act guidelines.

V. Proposed Rule

List of Subjects in 42 CFR Part 84

Occupational safety and health, Personal protective equipment, Respirators.

Text of the Rule

For the reasons discussed in the preamble, the Department of Health and Human Services proposes to amend 42 CFR Part 84 as follows:

PART 84—APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

1. The authority citation for Part 84 continues to read as follows:

Authority: 29 U.S.C. 577a, 651 et seq., and 657(g); 30 U.S.C. 3, 5, 7, 811, 842(h), 844.

§ 84.83 [Amended]

2. Amend § 84.83 as follows:

a. Revise paragraph (f) to read as follows:

§ 84.83 Timers; elapsed time indicators; remaining service life indicators; minimum requirements.

* * * * *

(f) Each remaining service-life indicator or warning device shall give an alarm when the reserve capacity of the apparatus is reached, and shall alarm continuously until depletion of the breathing air supply. The remaining service-life indicator shall be set by the manufacturer at 25 percent rated service time unless requested by purchasers to set the indicator to alarm at a higher value. For deployed units, the remaining service-life indicator may be set by an authorized representative of the manufacturer.

Dated: June 11, 2012.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2012–14764 Filed 6–22–12; 8:45 am]

BILLING CODE 4163–18–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Chapter VIII

[Docket No. NTSB–GC–2012–001]

Plan for Retrospective Analysis of Existing Rules

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Request for information.

SUMMARY: Pursuant to Executive Order 13579, ''Regulation and Independent Regulatory Agencies,'' issued July 11, 2011, the NTSB is announcing it is undertaking a review of all NTSB regulations. The purpose of Executive Order 13579 is to ensure all agencies adhere to the key principles found in Executive Order 13563, ''Improving Regulation and Regulatory Review,''

issued January 18, 2011, which include promoting public participation in rulemaking, improving integration and innovation, promoting flexibility and freedom of choice, and ensuring scientific integrity during the rulemaking process in order to create a regulatory system that protects public health, welfare, safety, and the environment while promoting economic growth, innovation, competitiveness, and job creation. The NTSB is committed to ensuring its regulations remain updated and comply with these principles, and in accordance with Executive Order 13579, will review all NTSB regulations to ensure adherence to the principles. This notice describes the plan of review the NTSB will undertake.

DATES: Comments should be received on or before August 24, 2012. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit written comments to Docket NTSB–GC–2012–001 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

Mail, Hand Delivery or Courier: NTSB Office of General Counsel, 490 L'Enfant Plaza, Washington, DC 20594.

Fax: (202) 314–6090.

FOR FURTHER INFORMATION CONTACT: David Tochen, NTSB General Counsel, at (202) 314–6080.

SUPPLEMENTARY INFORMATION:

I. Executive Order 13579

In order to ensure independent agencies' regulations are consistent with the key principles articulated in Executive Order 13563 (76 FR 3821, January 21, 2011), Executive Order 13579 (76 FR 41587, July 14, 2011) requests independent agencies issue public plans for periodic retrospective analysis of their existing ''significant regulations.'' The executive order further advises agencies to undertake such analyses to identify any significant regulations that may be outmoded, ineffective, insufficient, or excessively burdensome, and subsequently plan to modify, streamline, expand, or repeal them in order to achieve regulatory objective. Executive Order 13563 also emphasized the importance of maintaining a consistent culture of retrospective review and analysis by agencies of their regulatory programs. In this regard, the executive order included a ''look-back'' requirement for agencies to develop preliminary plans under which they will periodically review existing significant regulations to determine whether any should be modified, streamlined, expanded or repealed in order to make the agency's regulations more effective and less burdensome.

In a more recent Executive Order, the President directed Executive departments and agencies to allow for public participation in retrospective reviews; prioritize their reviews by first addressing the regulations that will provide the most significant monetary savings or in reductions in paperwork burdens; and regularly report the status of retrospective reviews to OIRA. Executive Order 13610, ''Identifying and Reducing Regulatory Burdens,'' issued May 10, 2012, (77 FR 28469, May 14, 2012).

As described above, Executive Order 13579 encourages independent agencies to review ''significant regulations''; however, the executive order does not define what agencies should consider to be ''significant regulations.'' The NTSB has therefore decided to utilize the definition of a ''significant regulatory action'' provided in Executive Order 12866 (''Regulatory Planning and Review''), which is the executive order that established the current regulatory review structure.[1] Consistent with the approach other independent agencies have taken, the NTSB also considered the definition of ''major rules'' in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, 5 U.S.C. 801(e)(2)) to guide our review of what regulations might be ''significant'' under the executive order. In this regard, 5 U.S.C. 610(a) provides for a 10-year review of rules that have a ''significant economic impact upon a substantial number of small entities.'' The NTSB, however, has determined that a very limited number of the NTSB's rules are ''major rules,'' because they do not have a ''significant economic impact upon a substantial number of small entities.'' In addition, the NTSB is not primarily a regulatory agency; as a result, its regulations typically address procedures to further the agency's statutory responsibilities to investigate the facts, circumstances, and cause of transportation accidents or implement governmentwide statutes, such as the Freedom of Information Act and the Privacy Act. This plan, therefore, describes only the NTSB regulations that could, when viewed in the broadest sense, have a significant economic impact upon a substantial number of small entities.

II. The NTSB's Plan

The NTSB has recently taken action on some parts of its regulations. For example, the NTSB finalized a new version of 49 CFR part 801 (Public Availability of Information) in 2007 (72 FR 18915, April 16, 2007); rescinded out-of-date regulations in 49 CFR part 805 (Employee Responsibilities and Conduct) in 2011 (76 FR 71910, November 21, 2011); issued some changes and additions to two sections within 49 CFR part 830 (notification and reporting of aircraft incidents and accidents) (75 FR 927, January 7, 2010; 75 FR 35330, June 22, 2010); and, most recently, issued a Notice of Proposed Rulemaking subsequent to an Advance Notice of Proposed Rulemaking suggesting several changes to 49 CFR parts 821 (Rules of Practice in Air Safety Proceedings) and 826 (Rules Implementing the Equal Access to Justice Act of 1980) (77 FR 6760, February 9, 2012). The NTSB undertook these rulemaking activities after noting many of the rules in the parts described above were out-of-date. None of these aforementioned parts, however, contain regulations that are ''significant'' under Executive Order 12866.

Review of 49 CFR Part 831

The NTSB has identified one regulatory portion that may contain ''significant regulations'' pursuant to the definition contemplated above: 49 CFR part 831. This part, entitled ''Accident/Incident Investigation Procedures,'' contains a set of 14 sections describing the NTSB's ''party process.'' This process involves the NTSB's invitation to outside entities to assist with an investigation as a ''party.'' The NTSB typically extends party status to those organizations that can provide the necessary technical assistance to the investigation. The investigator-in-charge (IIC), for example, often confers party status to the operator, aircraft, systems, and powerplant manufacturers, and labor organizations involved because of the accident circumstances. The IIC designates all other parties as participants, subject to the discretion of the IIC, with the exception of the Federal Aviation Administration (FAA). By statute, the FAA is automatically a

[1] 58 FR 51735, October 4, 1993. Section 3(f) of Executive Order 12866 defines ''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 this Executive Order.

participant in Safety Board investigations. 49 U.S.C. 1132(c). The role of the FAA representatives is to support the Safety Board's investigation and determine if immediate regulatory action is necessary to prevent another accident. The NTSB directs FAA representatives to refrain from using their participation to develop information for punitive actions or issuing violations.

The parties involved in NTSB investigations could be small entities, and, depending on the scope and circumstances of the investigation, the NTSB could request these small entities to be available for the on-scene portion of an investigation, as well as follow-up meetings and/or tasks. The NTSB does not reimburse investigation participants for the amount of time expended for an NTSB investigation, nor does the NTSB pay for any travel costs that arise out of such participation. As a result, it is remotely possible that a combination of NTSB investigations could result in costs that exceed $100 million.

Biennial Review

Although this interpretation of 49 CFR part 831 as containing ''significant regulatory actions'' is based on a broad reading of ''significant,'' and the NTSB has not yet overseen any investigations that singly or in combination exceed the aforementioned threshold, the NTSB nevertheless is committed to reviewing its regulations within 49 CFR part 831, in the interest of ensuring none are ''outmoded, ineffective, insufficient, or excessively burdensome'' under Executive Orders 13563 and 13579. In this regard, the NTSB herein proposes to review 49 CFR part 831 within the next 6 months to determine if any sections within part 831 could be modified, streamlined, expanded, or repealed, pursuant to the direction of Executive Order 13579. The NTSB's findings will form the basis for the NTSB's decision concerning whether the NTSB should make any changes to part 831. The NTSB is committed to issuing a Notice of Proposed Rulemaking within 6 months of the published findings, should the findings counsel in favor of changing any sections of part 831.

After the conclusion of any rulemaking activity, the NTSB will undertake a biennial review of part 831 to ensure no regulations are outmoded, ineffective, insufficient, or excessively burdensome. If the NTSB determines no changes to part 831 are necessary, the NTSB will begin computing time for its biennial review following the date of its publication of findings. The NTSB believes review on a biennial basis is appropriate for the subject matter contained in part 831, as the NTSB's party process is familiar to regular party participants, and party participants have not articulated concerns with the process that would warrant a change in regulations.

Following each biennial review, the NTSB will make its findings available for public comment, providing an opportunity for public input as to which of the regulations that are ripe for evaluation warrant a formal public review. This input, in addition to the NTSB's recommendation, will inform the NTSB's decision as to which regulations will be the subject of a formal public review. This public review could be initiated by a notice seeking public comment on whether the regulations continue to meet their original objectives or by a proposal of specific changes to the regulations.

Cultural Change

As indicated by the number of recent rulemaking activities, the NTSB is committed to developing a strong culture of retrospective analysis of its existing regulations. The NTSB currently is undertaking a review of other regulations that would not be considered ''significant,'' in which it is examining regulations to ensure they continue to be appropriate to meet the goal of the regulations without imposing an undue burden. In addition, the NTSB will seek to expand its effort to conduct regulatory reform and to make suggestions to modify, improve, or repeal regulations that may further the purpose of Executive Orders 13563, 13579, and 13610. The NTSB also encourages public comment on any of its regulations in title 49, Code of Federal Regulations, chapter VIII, in addition to 49 CFR part 831, consistent with the objectives of these Executive Orders. The NTSB will also consider the spirit of these Executive Orders when evaluating possible new regulations. With this change in the overall outlook concerning its regulations, the NTSB believes it will achieve the general objectives of these Executive Orders with regard to every part of its regulations, notwithstanding the fact that the vast majority of them are not ''significant'' under Executive Order 12866.

Dated: June 19, 2012.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2012–15327 Filed 6–22–12; 8:45 am]

BILLING CODE 7533–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 110207102–2084–02]

RIN 0648–BA81

Endangered and Threatened Wildlife and Plants; Proposed Rulemaking To Revise Critical Habitat for Hawaiian Monk Seals

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

ACTION: Proposed rule; notice of 6-month extension of the deadline for a final critical habitat determination.

SUMMARY: We, National Marine Fisheries Service (NMFS), published a proposed rule in the **Federal Register** on June 2, 2011, proposing to revise critical habitat for the Hawaiian monk seal under the Endangered Species Act (ESA) and requesting information related to the proposed action. This document announces a 6-month extension of the deadline for a final determination on the proposed rule. Based on comments received during the public comment period, we find that substantial disagreement exists regarding the sufficiency and accuracy of the data and analyses used to support the scope of the proposed critical habitat designation in the Main Hawaiian Islands. Accordingly, we are extending the deadline for the final revision to critical habitat for the Hawaiian monk seal an additional 6 months to further analyze data and consider concerns raised by State, Federal, and other entities, and better inform our determinations for the final revision of Hawaiian monk seal critical habitat under the ESA.

DATES: A final revision will be made no later than December 2, 2012.

ADDRESSES: The proposed rule, maps, and other materials relating to this proposal can be found on the NFMS Pacific Island Region's Web site at *http://www.fpir.noaa.gov/PRD/prd_critical_habitat.html.*

FOR FURTHER INFORMATION CONTACT: Jean Higgins, NMFS, Pacific Islands Regional Office, (808) 944–2157; Lance Smith, NMFS, Pacific Islands Regional Office, (808) 944–2258; or Dwayne Meadows, NMFS, Office of Protected Resources (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2011, we published a proposed rule to revise critical habitat for the Hawaiian monk seal (*Monachus schauinslandi*) by extending the current designation in the Northwestern Hawaiian Islands (NWHI) out to the 500-meter (m) depth contour and including Sand Island at Midway Islands; and by designating six new areas in the main Hawaiian Islands (MHI), pursuant to section 4 of the Endangered Species Act (ESA) (76 FR 32044; June 2, 2011). We received public comments in response to the proposed rule from June 2, 2011 through January 6, 2012. Comments were received, through electronic submissions, letters and oral testimonies from public hearings held in Kaunakakai, Molokai; Kihei, Maui; Lihue, Kauai; Honolulu, Oahu; Hilo, Hawaii; and in Kailua Kona, Hawaii.

Several commenters, including the Hawaii Department of Land and Natural Resources; the Western Pacific Regional Fishery Management Council; the State of Hawaii's House Committee on Water, Land, and Ocean Resources; and the State of Hawaii's Senate Committee on Water, Land, and Housing, have strongly criticized the scope of the proposed critical habitat designation. In particular comments focused on the sufficiency of the analysis and the accuracy of the description of the six physical or biological features that are identified as essential for the conservation of the species, as well as whether the areas proposed are appropriate for designation. Additionally, comments suggested that our identification of essential features and the science upon which they are based, did not rely on the best available science to support the delineation of the proposed designation. We have considered these comments, and we find that substantial disagreement exists over the identification of the essential features that support the scope of the proposed designation of critical habitat in the Main Hawaiian Islands, and whether these features are essential for the conservation of the species.

Extension of Critical Habitat Revision Determination

The ESA, section 4(b)(6), requires that we take one of three actions within 1 year of a proposed revision to critical habitat: (1) Finalize the proposed revision; (2) withdraw the proposed revision; or (3) extend the final revision to critical habitat by not more than 6 months. Section 4(b)(6)(B)(i) allows a 6-month extension of the 1-year deadline for a final revision if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the revision for the purposes of soliciting additional data.

We have received multiple comments on the scope of the designation and the sufficiency or accuracy of the available data used to support this proposed rulemaking. In particular, commenters raised questions regarding the foraging ecology of Hawaiian monk seals in the main Hawaiian Islands and whether the areas proposed for designation address the foraging needs and preferences in this habitat. The State of Hawaii's Department of Land and Natural Resources submitted a comment disagreeing with the identified physical and biological features and describing an alternative approach for considering foraging areas for this designation. We are presently working with the State to obtain further information regarding the data and analysis they used to support their evaluation of foraging areas. Additionally, the Western Pacific Regional Fishery Management Council submitted a comment disagreeing with the delineation of areas used by monk seals for foraging in the main Hawaiian Islands. NMFS has released just over 20 GPS-equipped cellular transmitter tags on seals in the main Hawaiian Islands in the past two years; we believe that further analysis of this data will provide additional information bearing on this dispute and may be sufficient to resolve it.

As a result of these comments, NMFS is extending the final revision to critical habitat for 6 months pursuant to section 4(b)(6)(B)(i). An additional 6 months will allow us to further evaluate the data used by the State, as well as analyze information received from GPS-equipped cellular transmitter tags in the main Hawaiian Islands. To ensure that the final rule is based solely on the best available scientific information, it is essential to resolve the substantial disagreement regarding the identification and analysis of the essential features which support the scope of the designation; therefore, we conclude that a 6-month extension of the final revision to critical habitat for the Hawaiian monk seal is warranted.

Although not a basis for the extension, we will also use this period to further evaluate all comments received regarding the potential economic impacts of the proposed designation.

In consideration of the disagreement surrounding the scope of this proposed designation, we extend the timeline for the final designation for an additional 6 months (until December 2, 2012) to resolve the disagreement.

Classification

Regulatory Planning and Review (E.O. 12866)

This notice has been determined to be not significant for purposes of E.O. 12866. A draft Economic Analysis report and draft ESA section 4(b)(2) report (NMFS, 2010b) were prepared to support the exclusion process under section 4(b)(2) of the ESA and our consideration of alternatives to this rulemaking as required under E.O. 12866. The draft Economic Analysis report (ECONorthwest, 2010) and draft ESA section 4(b)(2) report (NMFS, 2010b) are available on the Pacific Islands Region Web site at *http://www.fpir.noaa.gov/PRD/prd_critical_habitat.html.*

Authority: 16 U.S.C. 1531 *et seq.*

Dated: June 19, 2012.

Samuel D. Rauch III,

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

[FR Doc. 2012–15441 Filed 6–22–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 122
Monday, June 25, 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

June 19, 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.

Animal and Plant Health Inspection Service

Title: Requirements of Recognizing the Animal Health Status of Foreign Regions.

OMB Control Number: 0579–0219.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The AHPA is contained in Title X, Subtitle E, Sections 10401–18, of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. The Animal and Plant Health Inspection Service (APHIS) is responsible for, among other things, protecting the health of our Nation's livestock and poultry populations by preventing the introduction and spread of serious diseases and pests of livestock and poultry and for eradicating such diseases and pests from the United States when feasible. The regulations in 9 CFR part 92, ''Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions,'' set out the process by which a foreign government may request recognition of the animal health status of a region or approval to export animals or animal products to the United States based on the risk associated with animals or animal products from that region. Each request must include information about the region.

Need and Use of the Information: APHIS will collect information that might include: (1) The authority, organization, and infrastructure of the Veterinary Service Organization in the region; (2) disease status; (3) the status of adjacent regions with respect to the agent; (4) the extent of an active disease control program, if any, if the agent is known to exist in the region; (5) the vaccination status of the region, when was the last vaccination, what is the extent of vaccination if it is currently used, and what vaccine is being used; (6) the degree to which the region is separated from adjacent regions of higher risk through physical or other barriers; (7) the extent to which movement of animal and animal products is controlled from regions of higher risk, and the level of biosecurity regarding such movements; (8) livestock demographics and marketing practices in the region; (9) the type and extent of surveillance in the region, e.g., is it passive and/or active, what is the quantity and quality of sampling and testing; (10) diagnostic laboratory capabilities, and (11) policies and infrastructure for animal disease control in the region, i.e., emergency response capacity. Without the information the U.S. livestock and poultry industries could suffer serious economic losses as the result of such an incursion, as the value of their products would be diminished both domestically and internationally.

Description of Respondents: Federal Government.

Number of Respondents: 3.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 120.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–15454 Filed 6–22–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—National Hunger Clearinghouse Database Form

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection for the National Hunger Clearinghouse.

DATES: Written comments must be received on or before August 24, 2012.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Raymond Magee, Program Analyst, Office of Strategic Initiatives, Partnerships, and Outreach, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1400, Alexandria, VA 22302. Comments may also be submitted via email to *Raymond.Magee@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 1400 Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Raymond Magee, Program Analyst, at 703–305–2657.

SUPPLEMENTARY INFORMATION:

Title: National Hunger Clearinghouse Database Form.

Form: FNS 543.

OMB Number: 0584–0474.

Expiration Date: 8/31/2012.

Type of Request: Revision of a currently approved collection.

Abstract: Section 26(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769g(d)) (the Act), which was added to the Act by section 123 of Public Law 103–448 on November 2, 1994, mandated that FNS enter into a contract with a non-governmental organization to establish and maintain an information clearinghouse (named ''USDA National Hunger Clearinghouse'' or ''Clearinghouse'') for groups that assist low-income individuals or communities regarding nutrition assistance programs or other assistance. FNS awarded this contract to the national hunger advocacy organization World Hunger Year (WHY) of New York, NY. Section 26(d) was amended by section 112 of Public Law 105–336 on October 31, 1998, to extend funding for the Clearinghouse (now called ''National Hunger Clearinghouse'' or ''Clearinghouse'') through fiscal year 2003. This Act was amended again by Public Law 108–265 on June 30, 2004, and provided increased funding for the Clearinghouse through fiscal year 2008. Section 26(d) of this Act was amended again by Public Law 110–246 on October 1, 2008, to extend funding for the Clearinghouse through fiscal year 2010 with the option for four one-year renewals.

The Clearinghouse includes a database (FNS–543) of non-governmental, grassroots programs that work in the areas of hunger and nutrition, as well as a mailing list of relevant local governmental agencies. Under the original contract, Clearinghouse staff established the database by reviewing relevant programs of organizations contained in several existing mailing lists. Program and mailing information about organizations pulled from these lists were collected and entered into the database once each contract year via a mail survey with follow up to ensure high response rates. Surveys (FNS–543) are also completed on-line at *http://www.whyhunger.org/joinTheNetwork/governmentInfo.* Survey questionnaires will continue to be sent out under the current contract. From this information collection, the following information was determined:

Estimate of the Burden: Public reporting burden for this collection of information is estimated to average Ten (10) minutes to complete the survey (the survey includes one two-page instrument). There is no recordkeeping involved.

Affected Public: Business or other for-profit, as well as non-profit organizations, and organizations providing nutrition assistance services to the public.

Estimated Number of Respondents: 1,750.

Estimated Number of Responses per Respondent: One (1) response per respondent.

Estimated Total Annual Responses: 1,750.

Estimated Time per Respondent: .167.

Estimated Total Annual Burden on Respondents: 292.25 hours.

Affected public	Est. number of respondents	Frequency of response	Total estimated annual responses	Estimated time per response	Total estimated burden hours
Businesses and non-profits	1,750	1	1,750	.167	292.25

Dated: June 18, 2012.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2012–15387 Filed 6–22–12; 8:45 am]

BILLING CODE 3410–30–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 Telecommunications and Information Administration (NTIA).

Title: Computer and Internet Use Supplement to the Census Bureau's Current Population Survey (formerly Broadband Subscription and Usage Survey Supplement to the Census Bureau's Current Population Survey).

OMB Control Number: 0660–0021.

Form Number(s): None.

Type of Request: Regular submission (Reinstatement with change of a previously approved collection).

Estimated Number of Respondents: 54,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 2,700.

Needs and Uses: NTIA proposes to add 12 questions to the U.S. Census Bureau's October 2012 Current Population Survey (CPS) in order to gather reliable data on broadband (also known as high-speed Internet) use by U.S. households. President Obama has established a national goal of universal, affordable broadband access for all Americans (*http://www.whitehouse.gov/sites/default/files/20091217-recovery-act-investments-broadband.pdf*). To that end, the Administration is working with Congress, the Federal Communications

Commission (FCC), and other stakeholders to develop and advance economic and regulatory policies that foster broadband deployment and adoption. Collecting current, systematic, and comprehensive information on broadband use and non-use by U.S. households is critical to allow policymakers not only to gauge progress made to date, but also to identify problem areas with a specificity that permits carefully targeted and cost-effective responses.

The Census Bureau (''the Bureau'') is widely regarded as a superior collector of data based on its centuries of experience and its scientific methods. Collection of NTIA's requested broadband usage data will occur in conjunction with the Bureau's scheduled October 2012 Current Population Survey (CPS), thereby significantly reducing the potential burden on surveyed households. Questions on broadband and Internet use have been included in ten previous CPS surveys.

The modification the October CPS to include NTIA's requested broadband data will allow the Commerce Department and NTIA to respond to congressional concerns and directives.

Affected Public: Individuals or households.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas Fraser, (202) 395–5887.

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 6612, 14th Street 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 Nicholas Fraser, OMB Desk Officer, via the Internet at *Nicholas_A._Fraser@omb.eop.gov,* or by Fax at (202) 395–7285.

Dated: June 19, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15382 Filed 6–22–12; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application 12–00005]

Export Trade Certificate of Review

ACTION: Notice of Application for an Export Trade Certificate of Review from Colombia Rice Export Quota, Inc.

SUMMARY: The Export Trading Company Affairs (''ETCA'') unit, Office of Competition and Economic Analysis, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review (''Certificate''). This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

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

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register**, identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked ''privileged'' or ''confidential business information'' will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021X, Washington, DC 20230, or transmitted by Email at *etca@trade.gov.* Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 12–00005.'' A summary of the application follows.

Summary of the Application

Applicant: Colombia Rice Export Quota, Inc. (''COLOM–RICE''),

1700 Pennsylvania Avenue NW., Suite 200, Washington, DC 20006.

Application No.: 12–00005.

Date Deemed Submitted: June 5, 2012.

Members (in Addition to Applicant)

Arkansas Rice Research and Promotion Board, P.O. Box 31, Little Rock, AR 72203–0031; California Rice Research Board, P.O. Box 507, Yuba City, CA 95992; Louisiana Rice Research Board, 1373 Caffey Road, Rayne, LA 70578; Mississippi Rice Promotion Board, 2538 Crosby Road, Marigold, MS 38759; Missouri Rice Research and Merchandising Council, P.O. Box 77, Malden, MO 63863; Texas Rice Producers' Board, 301 W. Webb, El Campo, TX 77434; USA Rice, Merchants' Association, 2101 Wilson Boulevard, Arlington, VA 22201–3040; USA Rice Millers' Association, 2101 Wilson Boulevard, Arlington, VA 22201–3040; and Federación Nacional de Arroceros de Colombia (FEDEARROZ) Carrera 100 No. 25H—25, Bogotá—Colombia.

COLOM–RICE seeks a Certificate to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

Export Trade

Products

Rice classifiable for customs purposes under HTS Codes 1006.1090, 1006.2000, 1006.3000 and 1006.4000. The rice products as described in the Agricultural Tariff Schedule of the Republic of Colombia, as appended to the U.S.-Colombia Trade Promotion Agreement (''TPA''), signed into law by the President on October 12, 2011, and including the following Colombian HTS Codes: 1006.1090—rice in hull, except for seed (*arroz con cascara, excepto para siembra*); 1006.2000—hulled rice—

rough rice or brown rice (*arroz descascarillado, arroz cargo o arroz pardo*); 1006.3000—rice semi-milled or milled, whether polished or glazed (*arroz semiblanqueado o blanqueado, incluso pulido oglaseado*); 1006.4000—broken rice (*arroz partido*).

Export Markets

Rice for which tariff-rate quotas (''TRQs'') awards will be made will be exported to the Republic of Colombia.

Export Trade Activities and Methods of Operation

1. Purpose.

Colombia Rice Export Quota, Inc. (''COL–RICE'') will manage on an open tender basis the TRQs for rice products granted by the Republic of Colombia to the United States under the terms of the TPA, or any amended or successor agreement providing for Colombia TRQs for rice from the United States of America. Specifically, the TRQs for rice products are set forth at Paragraph 20 of Appendix I of the General Notes of Colombia, Annex 2.3 to the TPA. COL–RICE also will provide for distributions of the proceeds received from the tender process based on exports of rice (''the TRQ System'') to support the operation and administration of COL–RICE and to fund research projects for the benefit of the rice industry of the United States and to fund market development and/or competitiveness projects for the benefit of the rice production sector of the Republic of Colombia, as established by paragraph 6 of Article 5 of Decree No. 0728 of 2012, issued by the Ministry of Agriculture and Rural Development of Colombia.

2. Implementation.

A. *Administrator.* COL–RICE shall contract with a neutral third party Administrator (i.e., a party who is not engaged in the production, sale, distribution or export of rice or rice products) who shall bear responsibility for administering the TRQ System, subject to general supervision and oversight by the Board of Directors of COL–RICE.

B. *Membership.* COL–RICE's members under this certificate are: Arkansas Rice Research and Promotion Board; California Rice Research Board; Louisiana Rice Research Board; Mississippi Rice Promotion Board; Missouri Rice Research and Merchandising Council; Texas Rice Producers' Board; USA Rice Merchants' Association; and USA Rice Millers' Association on behalf of the U.S. rice industry; and Federación Nacional de Arroceros de Colombia (FEDEARROZ) on behalf of the rice production sector of the Republic of Colombia, as provided for in the letter of May 3, 2012, Radicado No. 20121100031363 issued by the Ministry of Agriculture and Rural Development according to paragraph 5 of Article 5 of Decree No.0728 of 2012, issued by the Ministry of Agriculture and Rural Development of Colombia.

C. *Open Tender Process.* COL–RICE shall offer TRQ Certificates for duty-free shipments of U.S. rice to the Republic of Colombia solely and exclusively through an open tender process with certificates awarded to the highest bidders (''TRQ Certificates''). COL–RICE shall hold tenders in accordance with tranches at least once each year. The award of TRQ Certificates under the open tender process shall be determined solely and independently by the Administrator in accordance with Section I without any participation by the Members of COL–RICE or the COL–RICE Board of Directors.

D. *Persons or Entities Eligible to Bid.* Any person or entity incorporated or with a legal address in the United States of America shall be eligible to bid in the open tender process.

E. *Notice.* The Administrator shall publish notice (''Notice'') of each open tender process to be held to award TRQ Certificates in the *Journal of Commerce* and, at the discretion of the Administrator, in other publications of general circulation within the U.S. rice industry; and in a publication of general circulation in Colombia. The Notice will invite independent bids and will specify (i) the total amount (in metric tons) that will be allocated pursuant to the applicable tender; (ii) the shipment period for which the TRQ Certificates will be valid; (iii) the date and time by which all bids must be received by the Administrator in order to be considered (the ''Bid Date''); and (iv) a minimum bid amount per ton, as established by the Board of Directors, to ensure the costs of administering the auction are recovered. The Notice normally will be published not later than 30 business days prior to the first day of the shipment period and will specify a Bid Date that is at least 10 business days after the date of publication of the Notice. The Notice will specify the format for bid submissions. Bids must be received by the Administrator not later than 5:00 p.m. EST on the Bid Date.

F. *Contents of Bid.* The bid shall be in a format established by the Administrator and shall state (i) the name, address, telephone and facsimile numbers, and email address of the bidder; (ii) the quantity of rice bid, in an amount stated in metric tons, or fractions thereof; (iii) the bid price in U.S. dollars per metric ton; and (iv) the total value of the bid. The bid form shall contain a provision, that must be signed by the bidder, agreeing that (i) any dispute that may arise relating to the bidding process or to the award of TRQ Certificates shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules; and (ii) judgment on any award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

G. *Performance Security.* The bidder shall submit with each bid a performance bond, irrevocable letter of credit drawn on a U.S. bank, cashier's check, wire transfer or equivalent security, in a form approved and for the benefit of an account designated by the Administrator, in the amount of $50,000 or the total value of the bid, whichever is less. The bidder shall forfeit such performance security if the bidder fails to pay for any TRQ Certificates awarded within five (5) business days. The bidder may chose to apply the performance security to the price of any successful bid, or to retain the performance security for a subsequent open tender process. Promptly after the close of the open tender process, the Administrator shall return any unused or non-forfeited security to the bidder.

H. *Confidentiality of Bids.* The Administrator shall treat all bids and their contents as confidential. The Administrator shall disclose information about bids only to another neutral third party, or authorized government official of the United States or of the Republic of Colombia and only as necessary to ensure the effective operation of the TRQ System or where required by law. However, after the issuance of all TRQ Certificates from an open tender process, the Administrator shall notify all bidders and shall disclose publicly (i) the total tonnage for which TRQ Certificates were awarded, and (ii) the average price and lowest price per metric ton of all successful bids.

I. *Award of TRQ Certificates.* The Administrator shall award TRQ Certificates for the available tonnage to the bidders who have submitted the highest price conforming bids. If two or more bidders have submitted bids with identical prices, the Administrator shall divide the remaining available tonnage in proportion to the quantities of their bids, and offer each TRQ Certificates in the resulting tonnages. If any bidder declines all or part of the tonnage offered, the Administrator shall offer that tonnage first to the other tying bidders, and then to the next highest bidder.

J. *Payment for TRQ Certificates.* Promptly after being notified of a TRQ award and within the time specified in the Notice, the bidder shall pay the full amount of the bid, either by wire transfer or by certified check, to an account designated by the Administrator. If the bidder fails to make payment within five (5) days, the Administrator shall revoke the award and award the tonnage to the next highest bidder(s).

K. *Delivery of TRQ Certificates.* The Administrator shall establish an account for each successful bidder in the amount of tonnage available for TRQ Certificates. Upon request, the Administrator will issue TRQ Certificates in the tonnage designated by the bidder, consistent with the balance in that account.

L. *Transferability.* TRQ Certificates shall be freely transferable except that (i) any TRQ Certificate holder who intends to sell, transfer or assign any rights under that Certificate shall publish such intention on a Web site maintained by the Administrator at least three (3) business days prior to any sale, transfer or assignment; and (ii) any TRQ holder that sells, transfers or assigns its rights under a TRQ Certificate shall provide the Administrator with notice and a copy of the sale, transfer or assignment within three (3) business days.

M. *Deposit of Proceeds:* The Administrator shall cause all proceeds of the open tender process to be deposited in interest-bearing accounts in a financial institution approved by the COL–RICE Board of Directors.

N. *Disposition of Proceeds.* The proceeds of the open tender process shall be applied and distributed as follows:

i. The Administrator shall pay from tender proceeds, as they become available, all operating expenses of COL–RICE, including legal, accounting and administrative costs of establishing and operating the TRQ System, as authorized by the Board of Directors.

ii. The legal, accounting and administrative expenses of the USA Rice Federation, the US Rice Producers Association, and FEDEARROZ directly related to establishing COL-RICE, shall be reimbursed from the proceeds of the COL-RICE as they become available and subject to the review of the Board.

iii. Of the proceeds remaining at the end of each year of operations and after all costs described in (i) and (ii) above have been paid—1. In years one (1) through ten (10), fifty percent (50%) shall be distributed to each of the six (6) state chartered rice research boards named as members above on a pro rata basis, that share being each state's pro rata share of the average of the immediately preceding three (3) years U.S. rice production, to fund rice research projects as defined by each of the six (6) state chartered research boards to benefit the United States rice industry. The funds are to be used for direct research projects and not to be used for general administrative purposes.

2. In years eleven (11) through eighteen (18), fifty percent (50%) shall be distributed to each of the six (6) state chartered rice research boards named as members above on a pro rata basis, that share being each state's pro rata share of the average of the immediately preceding three (3) years U.S. rice production, to fund research and promotion projects as defined by each of the six (6) state chartered research boards to benefit the United States rice industry as may be within the purview of each board. These funds are to be used for direct projects and are not to be used for general administrative purposes.

3. In all years, fifty percent (50%) of the proceeds shall be distributed to the Colombian Member to fund market development and/or competitiveness projects for the benefit of the rice production sector of the Republic of Colombia, as established by paragraph 6 of Article 5 of Decree No. 0728 of 2012, issued by the Ministry of Agriculture and Rural Development of Colombia.

O. *Arbitration of Disputes.* Any dispute, controversy or claim arising out of or relating to the TRQ System or the breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

P. *Confidential Information.* The Administrator shall maintain as confidential all export documentation or other business sensitive information submitted in connection with application for COL–RICE membership, bidding in the open tender process or requests for distribution of proceeds, where such documents or information has been marked ''Confidential'' by the person making the submission. The Administrator shall disclose such information only to another neutral third party or authorized government official of the Government of the United States of America or an official of the Government of the Republic of Colombia; and only where necessary to ensure the effective operation of the TRQ System or where required by law (including appropriate disclosure in connection with the arbitration of a dispute).

Q. *Annual Reports.* COL–RICE shall publish an annual report including a statement of its operating expenses and data on the distribution of proceeds, as reflected in the audited financial statement of the COL–RICE TRQ System. A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: June 19, 2012.

Joseph E. Flynn,

Director, Office of Competition and Economic Analysis.

[FR Doc. 2012–15388 Filed 6–22–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Initiation of Anticircumvention Inquiry

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

SUMMARY: In response to a request from SGL Carbon LLC and Superior Graphite Co. (the petitioners), the Department of Commerce (the Department) is initiating an anticircumvention inquiry pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act), to determine under the minor alterations provision whether graphite electrodes with diameters larger than 16 inches but less than 18 inches are products that are ''altered in form or appearance in minor respects'' from in-scope merchandise such that they may be considered subject to the antidumping duty order on small diameter graphite electrodes (SDGEs) from the People's Republic of China (PRC).[1]

In addition, in response to a request from the petitioners, the Department is also initiating an anticircumvention inquiry pursuant to section 781(d) of the Act to determine whether graphite electrodes with diameters larger than 16 inches but less than 18 inches may be considered subject to the SDGE Order under the later-developed merchandise provision.

[1] *See Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 8775 (February 26, 2009) (SDGE Order).

DATES: *Effective Date:* June 25, 2012.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 2012, the petitioners alleged that Chinese producers of graphite electrodes are engaged in circumvention of the SDGE Order by exporting graphite electrodes that have diameters that are larger than 16 inches but less than 18 inches (alleged SDGEs) to the United States.[2] The petitioners requested that the Department initiate an anticircumvention proceeding, pursuant to 19 CFR 351.225(i), to determine whether the importation from the PRC of alleged SDGEs constitutes circumvention of the SDGE Order, as defined in section 781(c) of the Act. The petitioners additionally requested that the Department initiate an anticircumvention proceeding, pursuant to 19 CFR 351.225(j), to determine whether the importation of alleged SDGEs from the PRC constitutes circumvention of the SDGE Order, as defined in section 781(d) of the Act.

On April 24, 2012, the Department requested additional information from the petitioners.[3] On May 4, 2012, we received the petitioners' response.[4] On May 10, 2012, the petitioners submitted further evidence in support of their claims.[5]

Scope of the Order

The merchandise covered by the order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by the order also includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrode. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 8545.11.0010.[6] The HTSUS number is provided for convenience and customs purposes, but the written description of the scope is dispositive.

Initiation of Minor Alterations Anticircumvention Proceeding

Statutory Criteria for Initiation of Anticircumvention Proceeding Under Section 781(c) of the Act

Section 781(c) of the Act provides that the Department may find circumvention of an antidumping duty (AD) order when products which are of the class or kind of merchandise subject to an AD order have been ''altered in form or appearance in minor respects * * * whether or not included in the same tariff classification.'' While the statute is silent as to what factors to consider in determining whether alterations are properly considered ''minor,'' the legislative history of this provision indicates that there are certain factors which should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, the Department has generally relied upon ''such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products.'' *See* S. Rep. No.71, 100th Cong., 1st Sess. 100 (1987) (''In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article.'').

The Petitioners' Request for Initiation of an Anticircumvention Proceeding Under Section 781(c) of the Act

The petitioners claim that prior to imposition of the SDGE Order, no U.S. or Chinese producer manufactured 17-inch SDGEs or other non-even sizes (*e.g.,* 16½ inch); rather, standard sizes of SDGEs above 10 inches were produced only in even inch sizes (*i.e.,* 10, 12, 14, 16). Thus, according to the petitioners, SDGEs with a nominal or actual diameter of 16 inches or less represented the complete range of all SDGE production in both the United States and the PRC at the time of the imposition of the SDGE Order. The petitioners assert that certain Chinese producers are now exporting to the United States SDGEs with diameters that are slightly larger in diameter than the 16-inch maximum specified in the scope of the SDGE Order in order to evade payment of ADs.[7] The petitioners provide import data to support their claim that the alleged SDGEs from the PRC spiked significantly during calendar years 2010 and 2011 after imposition of the SDGE Order.[8] According to the petitioners, there is no significant commercial or technological reason for this alteration by the Chinese producers other than to circumvent ADs. The petitioners provide declarations from members of the U.S. SDGE industry to support these allegations.[9]

Concerning the allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.225(i), the Department examines such factors as: (1) Overall physical characteristics; (2) expectations of ultimate users; (3) use of merchandise; (4) channels of marketing; and (5) cost of any modification relative to the value of the imported products.[10]

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[2] *See* Letter from the petitioners entitled, ''Small Diameter Graphite Electrodes: Request for Scope/Circumvention Ruling,'' dated April 5, 2012 (Initiation Request). As indicated in the ''Scope of the Order'' section, below, the maximum diameter specific in the scope of the SDGE Order is 16 inches.

[3] *See* the Department's Letter to the petitioners dated April 24, 2012.

[4] *See* Letter from the petitioners dated May 4, 2012 (SQR).

[5] *See* Letter from the petitioners dated May 10, 2012 (SQR2).

[6] The scope described in the SDGE Order refers to the HTSUS subheading 8545.11.0000. In their Initiation Request, the petitioners have informed the Department that, starting in 2010, imports of SDGEs are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020. *See* Initiation Request at 5.

[7] Specifically, the petitioners identified Sinosteel Jilin Carbon Co., Ltd. and its exporting affiliate Jilin Carbon Import and Export Company (collectively, Jilin Carbon), as companies engaging in this practice. *See* SQR at 2. The petitioners also asserted that Beijing Fangda Carbon-Tech Co., Ltd., Fangda Carbon New Material Co., Ltd., and Fushun Jinly Petrochemical Carbon may be exporting alleged SDGEs to the United States. *Id.* at 3–4.

[8] *See* Initiation Request at Exhibit 2 and SQR at Exhibit 6.

[9] *See* Initiation Request at Exhibit 1, SQR at Exhibit 2, and SQR2 at Exhibit 1.

[10] *See, e.g., Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Steel Plate from the People's Republic of China,* 74 FR 33991, 33992 (July 14, 2009) (*CTL Plate from the PRC*) (unchanged in *Affirmative Final Determination of Circumvention of the*

Each case is highly dependent on the facts on the record, and must be analyzed in light of those specific facts. Thus, although not specified in the Act, the Department has also included additional factors in its analysis, such as commercial availability of the product at issue prior to the issuance of the order as well as the circumstances under which the products at issue entered the United States, the timing and quantity of said entries during the circumvention review period, and the input of consumers in the design phase of the product at issue. *See, e.g., CTL Plate from the PRC,* 74 FR at 33992–33993.

In the Initiation Request, the petitioners presented the following evidence with respect to each of the aforementioned criteria:

A. Overall Physical Characteristics

The petitioners contend that alleged SDGEs exported to the United States have the same physical characteristics as those subject to the SDGE Order with the exception of the diameter. According to the petitioners, alleged SDGEs are produced in the same process as subject SDGEs and the slight increase of the diameter does not significantly change the SDGE's bulk density, specific electrical resistance, coefficient of thermal expansion, or flexural strength.[11] Moreover, the petitioners contend that alleged SDGEs are sold and purchased as SDGEs as direct substitutes for, and are interchangeable with, 16-inch SDGEs.[12] In support, the petitioners provide declarations from members of the U.S. industry and a sales call report.[13]

B. Expectations of the Ultimate Users

The petitioners assert that the ultimate purchasers of alleged SDGEs and in-scope 16-inch SDGEs expect that they are interchangeable. In support, the petitioners provide declarations from members of the U.S. SDGE industry stating that they are unaware of any instances in which customers expected any significantly different characteristics or uses by purchasing alleged SDGEs other than to avoid payment of ADs.[14] The petitioners claim that, to the best of their knowledge, the customers purchasing alleged SDGEs all used 16-inch SDGEs before the introduction of alleged SDGEs and that the diameter increase provides no significant added commercial or industrial improvement.[15]

C. Use of the Merchandise

The petitioners assert that the alleged SDGEs are sold to the same customers for the same end uses as the subject merchandise (*i.e.,* to be used as conductors of electricity in furnaces that heat or melt scrap metal or other material used to produce steel) and that the alleged SDGEs are a direct substitute for in-scope SDGEs that were previously purchased by the same end-users. In support, the petitioners provide declarations to this effect from members of the U.S. industry.[16]

D. Channels of Marketing

The petitioners assert that both alleged SDGEs and in-scope SDGEs are sold directly to foundries and steel producers, and that they are aware of at least one U.S. customer that was previously purchasing the subject merchandise who has simply substituted the alleged SDGEs for in-scope 16-inch SDGEs. In support, the petitioners provide declarations to this effect from members of the U.S. industry.[17]

E. Cost of Modification Relative to Total Value

The petitioners assert that the cost of modifying SDGEs to a diameter above the 16-inch maximum is minimal. In support, the petitioners provide declarations from members of the U.S. industry describing the cost of modifying SDGEs to a diameter above the 16-inch maximum.[18]

Analysis

As described above, the petitioners included declarations from members of the U.S. industry addressing the five factors the Department typically examines as part of a minor alterations inquiry under section 781(c) of the Act and 19 CFR 351.225(i). These declarations attest that graphite electrodes with diameters that are larger than 16 inches but less than 18 inches do not differ in any meaningful way from and are substitutable with SDGEs covered by the scope of the SDGE Order.[19] Specifically, the declarations attest that: (1) With the exception of diameter, the overall physical characteristics of the alleged SDGEs and subject SDGEs are the same; (2) the expectations of ultimate users of the alleged SDGEs and subject SDGEs are the same; (3) the uses of the alleged SDGEs and subject SDGEs are the same; (4) the channels of marketing the alleged SDGEs and subject SDGEs are the same; and (5) the relative cost to modify graphite electrodes to a diameter larger than 16 inches but less than 18 inches is minimal.[20] We have examined the declarations and found that the persons making them are in a position to have knowledge about the facts described in the declarations with respect to each of the aforementioned factors. Because these declarations are largely business proprietary and cannot be further discussed in a public notice, *see* the Memorandum to the File dated concurrently with this notice for a discussion of our analysis with respect to these declarations.

In addition to the information described above, the petitioners provided data to support their claim that imports of the alleged SDGEs from the PRC spiked significantly during calendar years 2010 and 2011 after imposition of the SDGE Order.[21] Although the import data does not segregate the alleged SDGEs from graphite electrodes with diameters of 18 inches or larger, the import data does show that imports of subject SDGEs decreased substantially (from a monthly average of over 500 metric tons in the first quarter of 2010 to a monthly average of less than 110 metric tons thereafter) while imports of non-subject graphite electrodes (*i.e.,* with diameters exceeding the specified maximum) increased substantially (from a monthly average of less than 600 metric tons in the first quarter of 2010 to a monthly average of more than 1,600 metric tons thereafter).[22]

We have determined that the evidence submitted by the petitioners concerning a surge in imports of the allegedly circumventing merchandise in combination with affidavits that this merchandise is now being used instead of subject merchandise is sufficient for purposes of initiating an anticircumvention inquiry under section 781(c) of the Act and 19 CFR 351.225(i). We will consider and address the information and arguments raised by all parties, including the respondents, in the context of this inquiry.

Merchandise Subject to the Minor Alterations Anticircumvention Proceeding

This minor alterations anticircumvention inquiry covers

Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China; 74 FR 40565 (August 12, 2009)).

[11] *See* Initiation Request at 7.

[12] *Id.*

[13] *Id.* at Exhibit 1.

[14] *Id.* at 10 and Exhibit 1.

[15] *Id.*

[16] *Id.* at 10–11 and Exhibit 1.

[17] *Id.* at 11–12 and Exhibit 1.

[18] *Id.* at 12 and Exhibit 1.

[19] *Id.* at Exhibit 1.

[20] *Id.*

[21] *See* SQR at Exhibit 6.

[22] *Id.*

graphite electrodes from the PRC that have diameters larger than 16 inches but less than 18 inches. Based upon information submitted by the petitioners, our inquiry will cover the following producers: Jilin Carbon, Beijing Fangda Carbon-Tech Co., Ltd., Fangda Carbon New Material Co., Ltd., and Fushun Jinly Petrochemical Carbon.[23] If the Department receives a formal request from an interested party regarding potential circumvention of the SDGE Order by other companies in the PRC under section 781(c) of the Act within sufficient time, we will consider conducting additional inquiries concurrently.

Initiation of Later-Developed Merchandise Anticircumvention Proceeding

Statutory Criteria for Initiation of Anticircumvention Proceeding Under Section 781(d) of the Act

Section 781(d) of the Act provides that the Department may find circumvention of an AD order with respect to ''merchandise developed after an investigation is initiated.'' Section 781(d)(1) of the Act provides that the Department ''shall consider whether:

(A) The later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the 'earlier product'),

(B) The expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,

(C) The ultimate use of the earlier product and the later-developed merchandise are the same,

(D) The later-developed merchandise is sold through the same channels of trade as the earlier product, and

(E) The later-developed merchandise is advertised and displayed in a manner similar to the earlier product.''

Section 781(d)(1) of the Act further provides that the Department ''shall take into account any advice provided by the Commission under subsection (e) {of section 781 of the Act} before making a determination under this subparagraph.''

The Petitioners' Request for Initiation of an Anticircumvention Proceeding Under Section 781(d) of the Act

The petitioners requested that, if the Department does not find that alleged SDGEs are within the scope of the SDGE Order on the basis of section 781(c) of the Act, the Department initiate an anticircumvention inquiry under the later-developed merchandise provision (*i.e.,* section 781(d) of the Act).

As described in the ''Initiation of Minor Alterations Anticircumvention Proceeding'' section, above, the petitioners claim that prior to imposition of the SDGE Order, no U.S. or Chinese producer manufactured 17-inch SDGEs or other non-even sizes (*e.g.,* 16½ inch). According to the petitioners, neither the National Electrical Manufacturers Association, the International Electrotechnical Commission, nor the Japanese Industrial Standard acknowledges that 17-inch SDGEs were offered in the marketplace.[24] The petitioners further assert that no U.S. or Chinese producer manufactured 17-inch SDGEs prior to imposition of the SDGE Order.[25]

Concerning the allegation of later-developed merchandise under section 781(d) of the Act and 19 CFR 351.225(j), the Department examines the above-enumerated factors in section 781(d)(1) of the Act. Each case is highly dependent on the facts on the record, and must be analyzed in light of those specific facts. As indicated above, the Department has also considered additional factors in its anticircumvention analysis, such as commercial availability of the product at issue prior to the issuance of the order as well as the circumstances under which the products at issue entered the United States, the timing and quantity of said entries during the circumvention review period, and the input of consumers in the design phase of the product at issue. *See, e.g., CTL Plate from the PRC,* 74 FR at 33992–33993.

In the Initiation Request, the petitioners presented evidence with respect to each of the aforementioned criteria. The evidence the petitioners provided with respect to overall physical characteristics, expectations of the ultimate users, use of the merchandise, and channels of trade is described in the ''Initiation of Minor Alterations Anticircumvention Proceeding'' section, above. With respect to the final criterion, advertising, the petitioners argue that, given that the Chinese producers are selling the alleged SDGEs to the same customers and for the same purposes as 16-inch SDGEs, there are no significant differences in the manner in which the product is advertised.[26] The petitioners contend that, in fact, none of the Chinese producers appears to be advertising this product at all.[27] The petitioners assert that the fact that the Chinese producers do not advertise alleged SDGEs to their home market customers is evidence that they are not selling them in the home market and that this fact evinces that the purpose of producing alleged SDGEs is not to meet customer demand for that particular size but to circumvent the SDGE Order.[28] The petitioners provide printouts of Chinese producers' Web pages to support these assertions.[29]

Analysis

Based in part on our analysis of the petitioners' minor alterations anticircumvention inquiry request, summarized above, the Department determines that the petitioners have also satisfied the criteria to warrant an initiation of a formal anticircumvention inquiry pursuant to section 781(d) of the Act and 19 CFR 351.225(j).

The first four statutory criteria are (1) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the ''earlier product,'' (2) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product, (3) the ultimate use of the earlier product and the later-developed merchandise are the same, and (4) the later-developed merchandise is sold through the same channels of trade as the earlier product. These are the same as the first four criteria we examined with respect to the minor alteration allegation and our analysis with respect to these criteria is described in the ''Initiation of Minor Alterations Anticircumvention Proceeding'' section, above.

Concerning the fifth factor, advertising, the Web page printouts submitted by the petitioners indicate that Chinese producers minimally advertise graphite electrodes with diameters larger than 16 inches but less than 18 inches, if at all.[30] This suggests that the purpose of producing alleged SDGEs is not to meet customer demand for that particular size but may be to circumvent the SDGE Order.

As described in the ''Initiation of Minor Alterations Anticircumvention Proceeding'' section, above, the petitioners additionally provided data to support their claim that imports of the alleged SDGEs from the PRC spiked

[23] *See* SQR at 2–4.

[24] *See* Initiation request at 15 and Exhibit 3.

[25] *Id.* at 15.

[26] *Id.* at 17.

[27] *Id.* at 17 and Exhibit 4.

[28] *Id.* at 17.

[29] *Id.* at Exhibit 4.

[30] *Id.* at Exhibit 4.

significantly during calendar years 2010 and 2011 after imposition of the SDGE Order.[31]

We have determined that the evidence submitted by the petitioners concerning a surge in imports of the allegedly circumventing merchandise in combination with affidavits that this merchandise is now being used instead of subject merchandise is sufficient for purposes of initiating an anticircumvention inquiry under section 781(d) of the Act and 19 CFR 351.225(j). We will consider and address the information and arguments raised by all parties, including the respondents, in the context of this inquiry.

The Department will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise.

Following consultation with interested parties, the Department will establish a schedule for questionnaires and comments on the issues. In accordance with section 781(e)(1) of the Act and 19 CFR 351.225(f)(7)(i)(C), we intend to notify the International Trade Commission in the event of an affirmative preliminary determination of circumvention under section 781(d) of the Act. The Department intends to issue its final determinations within 300 days of the date of publication of this initiation.

This notice is published in accordance with sections 781(c) and 781(d) of the Act and 19 CFR 351.225(i) and (j).

Dated: June 18, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–15439 Filed 6–22–12; 8:45 am]

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[31] *See* SQR at Exhibit 6.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Determination Correction

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

DATES: *Effective Date:* June 25, 2012.

SUMMARY: On May 25, 2012, the Department of Commerce (the ''Department'') published its notice of preliminary determination in the antidumping duty investigation of crystalline silicon photovoltaic cells, whether or not assembled into modules (''solar cells''), from the People's Republic of China (''PRC''). The Department received comments from Delsolar Co., Ltd. and DelSolar (Wujiang) Ltd. (collectively, ''DelSolar'') and JinkoSolar International Limited (''Jinko'') on May 22 and 25, 2012, respectively, concerning errors that the Department made with respect to the names of these companies in the table in the ''Preliminary Determination'' section in the solar cells from the PRC preliminary determination notice.

FOR FURTHER INFORMATION CONTACT: Howard Smith, Jeffrey Pedersen, Krisha Hill, or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5193, (202) 482–2769, (202) 482–4037, or (202) 482–4406, respectively.

Correction

In the **Federal Register** notice *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Affirmative Preliminary Determination of Critical Circumstances,* 77 FR 31309 (May 25, 2012), under the section entitled ''Preliminary Determination,'' we incorrectly identified the producer ''DelSolar (Wujiang) Ltd.'' as ''Delsolar Co., Ltd.'' Additionally, the Department incorrectly placed a space between ''Jinko'' and ''Solar'' in the exporter name ''JinkoSolar International Limited.'' The exporter-producer combinations involving these companies should have been listed in the preliminary determination notice as follows:

Exporter	Producer
Delsolar Co., Ltd	DelSolar (Wujiang) Ltd.
JinkoSolar International Limited.	Jinko Solar Co., Ltd.

We will revise the cash deposit instructions that were issued to U.S. Customs and Border Protection for the preliminary determination accordingly. This correction notice is published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: June 19, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–15434 Filed 6–22–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC059

Endangered Species; File No. 17022

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center (PIFSC; Samuel Pooley, Ph.D., Responsible Party), has applied in due form for a permit to take green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or July 25, 2012.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17022 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm. 1110, Honolulu, HI 96814–4700; phone (808) 944–2200; fax (808) 973–2941.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division:

- By email to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line of the email),
- By facsimile to (301) 713–0376, or
- At the address listed above.

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

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Colette Cairns, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The PIFSC requests a five-year research permit to continue long-term monitoring of the status of green and hawksbill sea turtles in the remote U.S. Islands and Territories in the Central Pacific excluding Hawaii to begin long-term monitoring to estimate abundance, size ranges, health status, habitat use, foraging ecology, local movements, and migration routes for green and hawksbill sea turtles. Researchers would capture, examine, measure, flipper and passive integrated transponder tag, weigh, skin and blood sample, and attach transmitters on 220 green and 165 hawksbill sea turtles annually before release. Researchers also may collect the carcasses, tissues and parts of dead sea turtles encountered during surveys.

Dated: June 19, 2012.

P. Michael Payne,

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

[FR Doc. 2012–15442 Filed 6–22–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA626

Marine Mammals; File No. 16163

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that the Northwest Fisheries Science Center (NWFSC, Dr. M. Bradley Hanson, Principal Investigator), 2725 Montlake Blvd. East, Seattle, WA 98112–2097, has applied for an amendment to Scientific Research Permit No. 16163.

DATES: Written, telefaxed, or email comments must be received on or before July 25, 2012.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16163 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices: See **SUPPLEMENTARY INFORMATION.**

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 16163 in the subject line of the email comment.

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

FOR FURTHER INFORMATION CONTACT: Laura Morse or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 16163 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 16163, issued on June 5, 2012 (77 FR 35657), authorizes takes of forty-two species of marine mammals in all U.S. and international waters in the Pacific Ocean, including waters of Alaska, Washington, Oregon, California, and Hawaii. Harassment of all species of cetaceans will occur through vessel approach for sighting surveys, photographic identification, behavioral research, opportunistic sampling (breath, sloughed skin, fecal material, and prey remains), acoustic imaging with echosounders, and aerial surveys. Twenty-seven cetacean species and unidentified mesoplodon species will be biopsied, dart, and/or suction-cup tagged. Ultrasound sampling will be directed at killer whales including the Southern Resident stock. Active acoustic playback studies will be directed at Southern Resident killer whales. Import and export of marine mammal prey specimens, skin and blubber, sloughed skin, fecal and breath samples obtained is authorized. The permit is valid until June 6, 2017.

The permit holder is requesting the permit be amended to increase the takes associated with Level B harassment from 25 each per year to 2500 for short-beaked common (*Delphinus delphis*) and long-beaked common (*D. capensis*) dolphins. The purpose of the take increase is to correct an error in original application.

An environmental assessment (EA) and Finding of No Significant Impact (FONSI) (signed June 4, 2012) prepared for the permit analyzed the effects of Level B harassment of long- and short beaked common dolphins and the determination was made that preparation of an environmental impact statement was not required. NMFS has further determined that the proposed increase in takes would not significantly impact the quality of the human environment and that preparation of a supplemental environmental assessment is not required. The EA and FONSI are available upon request.

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

Documents may be reviewed in the following locations:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249;

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

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808)973–2941.

Dated: June 20, 2012.

P. Michael Payne,

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

[FR Doc. 2012–15445 Filed 6–22–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2012–0026]

Cooperative Patent Classification External User Day

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is hosting a Cooperative Patent Classification (CPC) External User Day event at its Alexandria Campus. CPC is a partnership between the USPTO and the European Patent Office (EPO) in which the Offices have agreed to develop a joint patent classification system that will incorporate the best classification practices of the two Offices. This CPC event is the next step, in a series of steps, to be undertaken by the USPTO in educating and informing external stakeholders about the current development and future implementation plans of the CPC.

DATES: The event will be held on Tuesday, July 10, 2012, beginning at 8:30 a.m. Eastern Standard Time (EST), and ending at 12:00 p.m. EST.

ADDRESSES: The event will be held at the USPTO in the Madison Auditorium on the concourse level of the Madison Building located at 600 Dulany Street, Alexandria, Virginia 22314.

For Event Registration: There is no fee to register for the event and registration will be on a first-come, first-serve basis. Early registration is recommended because seating is limited. Registration on the day of the event (July 10, 2012) will be permitted on a space-available basis beginning at 8:30 a.m., Eastern Standard Time.

To register, please provide your name and phone number to *CPC_Users_Day@uspto.gov.*

FOR FURTHER INFORMATION CONTACT: Derris Banks, Supervisory Patent Examiner, TC 3700, by telephone at (571) 272–4419, or by electronic mail message at *derris.banks@uspto.gov,* or Linda Dvorak, Supervisory Patent Examiner, TC 3700, by telephone at (571) 272–4764, or by electronic mail message at *linda.dvorak@uspto.gov.*

SUPPLEMENTARY INFORMATION: Key USPTO executive staff and project managers will brief attendees on a general introduction and overview of the CPC, as well as introduce information concerning external user interaction, accessibility, training and outreach related to the CPC.

The CPC will be a detailed classification system that is International Patent Classification (IPC)-based and will enable patent examiners to efficiently conduct thorough patent searches. CPC will incorporate the best classification practices of both the U.S. and European systems. The USPTO and the EPO also believe that the CPC will enhance efficiency and support work sharing initiatives with a view to reducing unnecessary duplication of work.

For further information about the CPC, please visit *www.cpcinfo.org.*

Dated: June 19, 2012.

David J. Kappos,

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

[FR Doc. 2012–15447 Filed 6–22–12; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–08]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–08 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 19, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

JUN 12 2012

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-08, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Qatar for defense articles and services estimated to cost $1.112 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Qatar

(ii) *Total Estimated Value:*

Major Defense Equipment*	$.751 billion
Other	.361 billion
Total	1.112 billion

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 12 UH–60M BLACK HAWK Utility Helicopters, 26 T700–GE–701D Engines (24 installed and 2 spares), 15 AN/AAR–57(V)7 Common Missile Warning Systems, 15 AN/AVR–2B Laser Detecting Sets, 15 AN/APR–39A(V)4 Radar Signal Detecting Sets, 26 M240H Machine Guns, and 26 AN/AVS–6 Night Vision Goggles. Also included are M206 infrared countermeasure flares, M211 and M212 Advanced Infrared Countermeasure Munitions (AIRCM) flares, M134D–H Machine Guns, system integration and air worthiness certification, simulators, generators, transportation, wheeled vehicles and organization equipment, spare and repair parts, support equipment, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical,

and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Army (WYZ).

(v) *Prior Related Cases, if any:* None.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(viii) *Date Report Delivered to Congress:* 12 June 2012.

Policy Justification

Qatar—UH–60M BLACK HAWK Helicopters

The Government of Qatar has requested a possible sale of 12 UH–60M BLACK HAWK Utility Helicopters, 26 T700–GE–701D Engines (24 installed and 2 spares), 15 AN/AAR–57(V)7 Common Missile Warning Systems, 15 AN/AVR–2B Laser Detecting Sets, 15 AN/APR–39A(V)4 Radar Signal Detecting Sets, 26 M240H Machine Guns, and 26 AN/AVS–6 Night Vision Goggles. Also included are M206 infrared countermeasure flares, M211 and M212 Advanced Infrared Countermeasure Munitions (AIRCM) flares, M134D–H Machine Guns, system integration and air worthiness certification, simulators, generators, transportation, wheeled vehicles and organization equipment, spare and repair parts, support equipment, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical, and logistics support services, and other related elements of logistics support. The estimated cost is $1.112 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been, and continues to be, an important force for political and economic progress in the Middle East. Qatar is host to the U.S. AFCENT forces and serves as a critical forward-deployed location in the region.

The proposed sale of the UH–60M BLACK HAWK helicopters will improve Qatar's capability to meet current and future threats and provide greater security for its critical oil and natural gas infrastructure, and significant national events. Qatar will use the enhanced capability to strengthen its homeland defense. Qatar will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractors will be Sikorsky Aircraft Company in Stratford, Connecticut, and General Electric Aircraft Company in Lynn, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two contractor representatives to Qatar for a minimum of three years to support delivery of the helicopters and provide support and equipment familiarization. In addition, Qatar has expressed an interest in a Technical Assistance Fielding Team for in-country pilot and maintenance training. To support the requirement, a team of 12 personnel (one military team leader and 11 contractors) would be deployed to Qatar for approximately three years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The UH–60M BLACK HAWK Helicopter weapon system contains communications and target identification equipment, navigation equipment, aircraft survivability equipment, displays, and sensors. The airframe itself does not contain sensitive technology; however, the pertinent equipment listed below will be either installed on the aircraft or included in the sale:

a. The AN/AAR–57(V)7 Common Missile Warning System (CMWS) detects energy emitted by threat missile in-flight, evaluates potential false alarm emitters in the environment, declares validity of threat and selects appropriate counter-measures. The CMWS consists of an Electronic Control Unit (ECU), Electro-Optic Missile Sensors (EOMSs), and Sequencer and Improved Countermeasures Dispenser (ICMD). The ECU hardware is classified Confidential; releasable technical manuals for operation and maintenance are classified Secret.

b. The AN/APR–39A(V)4 Radar Signal Detecting Set is a system that provides warning of a radar directed air defense threat to allow appropriate countermeasures. This is the 1553 databus compatible configuration. The hardware is classified Confidential when programmed with U.S. threat data; releasable technical manuals for operation and maintenance are classified Confidential; releasable technical data (technical performance) is classified Secret.

c. The AN/AVR–2B Laser Warning Set is a passive laser warning system that receives, processes and displays threat information resulting from aircraft illumination by lasers. The hardware is classified Confidential; releasable technical manuals for operation and maintenance are classified Secret.

d. The M211 flare is a countermeasure decoy in a 1″x1″x8″ form factor in an aluminum case cartridge. It consists of case, piston, special material payload foils, and end cap. The special material is a pyrophoric metal (iron) foil that reacts with oxygen to generate infrared energy. The M211 decoys are dispersed from an aircraft to be used as a decoy in combination with the currently fielded M206 and M212 countermeasure flares to protect against advanced air-to-air and surface-to-air missile threats. The hardware is Unclassified and releasable technical manuals for operation and maintenance are classified Secret.

e. The M212 flare is a multi-spectral countermeasure flare in a 1″x1″x8″ form factor in an aluminum case cartridge. It consists of a case, impulse cartridge, Safe and Ignition (S&I), a propellant grain and a forward brass closure which acts as a weight to improve aerodynamics of the decoy. The M212 flares are dispersed from an aircraft and used in combination with the currently fielded M206 and M211 countermeasure flares and decoys to protect against advanced air-to-air and surface-to-air missile threats. The hardware is Unclassified and releasable technical manuals for operation and maintenance are classified Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–15359 Filed 6–22–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–31]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–31 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 19, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUN 7 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-31, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Norway for defense articles and services estimated to cost $300 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–31

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Norway.

(ii) *Total Estimated Value:*

Major Defense Equipment *	$270 million
Other	30 million
Total	300 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 2 C–130J–30 United States Air Force (USAF) baseline Aircraft, 9 Rolls Royce AE2100D3 Engines (8 installed and 1 spare), countermeasure systems, aircraft modifications, Government Furnished Equipment, communicationequipment and support, tools and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (SAG).

(v) *Prior Related Cases, if any:* FMS case SAF—$518M—Feb07.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* 7 June 2012.

Policy Justification

Norway—C–130J–30 Aircraft

The Government of Norway has requested a possible sale of 2 C–130J–30 United States Air Force (USAF) baseline Aircraft, 9 Rolls Royce AE2100D3 Engines (8 installed and 1 spare), countermeasure systems, aircraft modifications, Government Furnished Equipment, communication equipment and support, tools and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $300 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a NATO ally. Norway has been a strong partner in coalition operations in Libya, Iraq and Afghanistan, and has provided support to the Balkans, the Baltics, and the NATO training mission in Iraq (NTM-I). Norwegian efforts in peacekeeping and humanitarian operations have made a significant impact on regional political and economic stability and have served U.S. national security interests.

Norway intends to use these aircraft in support of NATO-International Security Assistance Force (ISAF) missions in Afghanistan. Norway needs these aircraft to fulfill national and international airlift commitments and requirements, and to increase its capability to provide intra-theater lift for its forces. These aircraft will also increase Norway's ability to assist in disaster relief, humanitarian missions, and military deployments in the future. The Royal Norwegian Air Force, which already operates C–130Js in Norway and in support of operations worldwide, will have no difficulty absorbing these additional aircraft.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Lockheed Martin-Aerospace in Marietta, Georgia. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Norway.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–31

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) Sensitivity of Technology:

1. The AN/ALE–47 Counter-Measures Dispensing System (CMDS) is an integrated, threat-adaptive, software-programmable dispensing system capable of dispensing chaff, flares, and active radio frequency expendables. The threats countered by the CMDS include radar-directed anti-aircraft artillery, radar command-guided missiles, radar homing guided missiles, and infrared guided missiles. The system is internally mounted and may be operated as a stand-alone system or may be integrated with other on-board EW and avionics systems. The AN/ALE–47 uses threat data received over the aircraft interfaces to assess the threat situation and to determine a response. Expendable routines tailored to the immediate aircraft and threat environment may be dispensed using one of four operational modes. The hardware and technical data and documentation provided are Unclassified.

a. The AN/AAR–47 Missile Warning System is a small, lightweight, passive, electro-optic, threat warning device used to detect surface-to-air missiles fired at helicopters and low-flying fixed-wing aircraft and automatically provide countermeasures, as well as audio and visual-sector warning messages to the aircrew. The basic system consists of multiple Optical Sensor Converter (OSC) units, a Computer Processor (CP) and a Control Indicator (CI). The set of OSC units, which normally consist of four, is mounted on the aircraft exterior to provide omni-directional protection. The OSC detects the rocket plume of missiles and sends appropriate signals to the CP for processing. The CP analyzes the data from each OSC and automatically deploys the appropriate countermeasures. The CP also contains comprehensive BIT circuitry. The CI displays the incoming direction of the threat, so that the pilot can take appropriate action. The hardware and technical data and documentation to be provided are Unclassified.

b. The AN/ALR–56M Advanced Radar Warning Receiver continuously detects and intercepts radio frequency signals in certain frequency ranges and analyzes and separates threat signals from non-threat signals. It contributes to full-dimensional protection by providing individual aircraft probability of survival through improved aircrew situational awareness of the radar guided threat environment. The ALR–56M is designed to provide improved performance in a dense signal environment and improved detection of modern threat signals. The hardware and technical data and documentation to be provided are Unclassified.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–15335 Filed 6–22–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–19]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–19 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 19, 2012.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

JUN 12 2012

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-19, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Oman for defense articles and services estimated to cost $86 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–19

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Oman.

(ii) *Total Estimated Value:*

Major Defense Equipment *	$67 million
Other	19 million
Total	86 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 55 AIM–9X Block II SIDEWINDER All-Up-Round Missiles, 36 AIM–9X Block II SIDEWINDER Captive Air Training Missiles, 6 AIM–9X Block II Tactical Guidance Units, 4 AIM–9X Block II Captive Air Training Missile Guidance Units, 1 Dummy Air Training Missile, containers, weapon support equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical support services, and other related elements of logistics support.

(iv) *Military Department:* Navy (LAN).

(v) *Prior Related Cases, if any:* None.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(viii) *Date Report Delivered to Congress:* 12 June 2012.

Policy Justification

Oman—AIM–9X Block II SIDEWINDER All-Up-Round Missiles

The Government of Oman has requested a possible sale of 55 AIM–9X Block II SIDEWINDER All-Up-Round Missiles, 36 AIM–9X Block II SIDEWINDER Captive Air Training Missiles, 6 AIM–9X Block II Tactical Guidance Units, 4 AIM–9X Block II Captive Air Training Missile Guidance Units, 1 Dummy Air Training Missile, containers, weapon support equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical support services, and other related elements of logistics support. The estimated cost is $86 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The Government of Oman is modernizing its F–16 fighter aircraft fleet to better support its own air defense needs. The proposed sale of AIM–9X Block II missiles will provide a significant increase in Oman's defensive capability while enhancing interoperability with the U.S. and other allies. Oman will have no difficulty absorbing this additional capability into its armed forces.

The proposed sale of this weapon system and support will not alter the basic military balance in the region.

The prime contractors will be Raytheon Missile Systems in Tucson, Arizona. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require multiple trips to Oman involving U.S. Government or contractor representatives on a temporary basis for program and technical support, and management oversight. There are no known offset agreements proposed in connection with this potential sale.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–19

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AIM–9X–2 Sidewinder Block II missile represents a substantial increase in missile acquisition and kinematics performance over the AIM–9M and replaces the AIM–9X–1 Block I missile configuration. The missile includes a high off bore-sight seeker, enhanced countermeasure rejection capability, low drag/high angle of attack airframe and the ability to integrate the Helmet Mounted Cueing System. The software algorithms are the most sensitive portion of the AIM–9X–2 missile. The software continues to be modified via a pre-planned product improvement (P^3I) program in order to improve its counter-counter measures capabilities. No software source code or algorithms will be released. The missile is classified as Confidential.

2. The possible sale of the AIM–9X–2 missile will result in the transfer of sensitive technology and information, as well as classified and unclassified defense equipment and technology and information, as well as classified and unclassified defense equipment and technical data. The equipment/hardware and documentation are classified Confidential; software and operational/performance are classified Secret with training and maintenance being Unclassified. The external view of the AIM–9X–2 missile is Unclassified and not sensitive. The seeker/guidance control section and the target detector are Confidential and contain sensitive state-of-the-art technology. Specifically, the infrared seeker sensitivity is a significant improvement over the previous AIM–9 variants. Manuals and technical documents for the AIM–9X–2 missile that are necessary or support operational use and organizational maintenance have portions classified up to Secret. Performance and operating logic of the counter-counter measures circuits are Secret. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and similar critical information.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapons systems effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–15360 Filed 6–22–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2012–OS–0074]

Privacy Act of 1974; System of Records

AGENCY: Defense Threat Reduction Agency, DoD.

ACTION: Notice to Delete a System of Records.

SUMMARY: The Defense Threat Reduction Agency is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on July 25, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive,

East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Juanita Gaines, COSM FOI/Privacy Office, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201 or at (703) 767–1771.

SUPPLEMENTARY INFORMATION: The Defense Threat Reduction Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 19, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:
HDTRA 020

Human Radiation Research Review (January 29, 2010, 75 FR 4789).

REASON:

The National Archives and Records Administration (NARA) officially accepted this system on April 16, 2010 and is now under their authority.

[FR Doc. 2012–15317 Filed 6–22–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Intent To Obtain Information Regarding Organizations Who Are Assisting African Governments To Increase Healthcare Institution Capacity To Maintain Complex Medical Equipment

AGENCY: United States Africa Command, DoD.

ACTION: Notice of intent to obtain information regarding organizations active in this area, for the purpose of information sharing.

SUMMARY: This notice announces that the U.S. Africa Command (AFRICOM) is seeking information about organizations, both public or private, which are currently helping African government hospitals, clinics, laboratories, and other African governmental health institutions put in place trained and certified biomedical technicians, sustainable maintenance and supply capabilities, and/or standards and training for the maintenance and use of complex medical equipment. The organizations sought are of two types: (1) Organizations which are sustainably involved in enhancing the long term ability of African government health institutions to maintain complex medical equipment or (2) African government health institutions with the ability to substantiate their capability to maintain complex medical equipment. This information is being solicited to inform AFRICOM of potential capacity to improve the impact of AFRICOM's Excess Property Program. Information provided to AFRICOM is not for the purposes of obtaining a contract, nor would the information provided guarantee an excess property donation to any African country.

DATES: Submission of information is continuous on or before September 30, 2012.

ADDRESSES: Entities wishing to inform AFRICOM of their work in Africa and their interest in sharing information may write or email Rebecca Balogh at *Rebecca.balogh@usafricom.mil* or call +49 711 729 4439 or Ms. Rebecca Balogh, Senior Lead, Public Private Partnerships, Plieninger Strasse 289, Stuttgart Moehringen, 70567. Additional instructions will be provided after contact.

FOR FURTHER INFORMATION CONTACT: AFRICOM J9—Outreach Directorate, +49 711 729 4439 or at *Rebecca.balogh@usafricom.mil.* Alternative contact: Richard Parker, +49 711 729 2000 or Richard Parker at *richard.parker@usafricom.mil.*

SUPPLEMENTARY INFORMATION: There are no fees involved and no funding will be provided. Organizations sought are both public and private and are sustainably involved in enhancing the long term ability of African government institutions to maintain complex medical equipment or will be the African government institutions themselves with the ability to prove their capability to maintain complex medical equipment. AFRICOM, through U.S. Embassies' Offices of Security Cooperation and in coordination with their respective Embassy Country Team in Africa, will begin to entertain requests for excess complex medical equipment from African Government health facilities provided they submit an acceptable sustainability plan for such requested equipment and meet all other traditional requirements of the Defense Security Cooperation Agency's (DSCA) Overseas Humanitarian Disaster Assistance and Civic Aid (OHDACA) program. This new policy of proactively seeking organizations who are involved in similar efforts is called the Next Level Up.

Information partnerships do not necessarily lead to fulfillment of requests of excess complex medical equipment and only African governmental health institutions such as hospitals, clinics, and laboratories may request potential donations of excess complex medical equipment through their local U.S. Embassy. In addition, not all U.S. Embassies in Africa entertain requests for excess property. Requests for such equipment must meet all traditional requirements in accordance with law and DSCA policy guidance. The information sought will be used to more effectively identify potential recipients.

Dated: June 20, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–15386 Filed 6–22–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Public Meetings for the Barry M. Goldwater Range, Arizona

AGENCY: United States Air Force and United States Marine Corps.

ACTION: Notice.

SUMMARY: This notice is being issued pursuant to Section 3031(b)(5)(B) of the Military Lands Withdrawal Act (MLWA) of 1999 (Pub. L. 106–65, Title XXX) regarding opportunities for public review and comment on a Public Report that is being prepared in association with an update of the Integrated Natural Resources Management Plan (INRMP) for the Barry M. Goldwater Range (BMGR), Arizona.

The process to update the 2007 BMGR INRMP is being initiated by the U.S. Air Force and U.S. Marine Corps. The Sikes Act (16 U.S.C. 670a) provides that INRMPs must be reviewed as to their operation and effect not less often than every five years. The BMGR INRMP will

be updated in accordance with this Sikes Act provision and will be prepared in coordination with the Director of the U.S. Fish and Wildlife Service and the Director of Arizona Game and Fish Department. In accordance with the MLWA and in support of the INRMP update, the U.S. Air Force and U.S. Marine Corps are also preparing a Public Report to summarize current military use of the BMGR, changes in military use of the lands since the 2007 INRMP was implemented, and efforts related to the management of natural and cultural resources and environmental remediation of the lands during the previous five years.

Two public meetings are scheduled to familiarize the public with progress made in the management of natural resources since completion of the 2007 INRMP, to seek review and input on the Public Report to guide development of the INRMP update, and to share information about projects planned to support natural resource management during the next five years. The meeting scheduled for 17 July 2012 in Yuma, Arizona will focus on BMGR West and a second meeting focused on BMGR East is scheduled for 18 July 2012 in Gila Bend, Arizona. Public meetings will be announced in the following Arizona newspapers: *Yuma Sun, West Valley View* (Glendale), the *Gila Bend Sun, Arizona Daily Star* (Tucson), and the *Ajo Copper News.* Federal, state, and local agencies; Native American tribes; and interested individuals are encouraged to take these opportunities to participate in the INRMP update process.

DATES AND ADDRESSES: Public meetings are scheduled for 17 and 18 July, 2012 for BMGR West and BMGR East, respectively. Both meetings will be an open house format with presentation boards and project team members available to answer questions.

17 July 2012, 6:00–8:00 p.m., Yuma County Main Library, Conference Room, 2951 S. 21st Drive, Yuma, Arizona,

18 July 2012, 6:00–8:00 p.m., Gila Bend Resource Center, Training Room, 303 E. Pima St., Gila Bend, Arizona.

Submitting Comments: You may submit comments related to the updating of the BMGR INRMP to: Beth Defend, URS Corporation, 7720 N. 16th Street, Suite 100, Phoenix, AZ 85020, *bmgr@urs.com.*

FOR FURTHER INFORMATION CONTACT: BMGR East, Daniel Garcia, Luke Air Force Base, (623) 856–4265 or *daniel.garcia@luke.af.mil* BMGR West, Ron Pearce, Marine Corps Air Station Yuma, (928) 269–3401 or *ronald.pearce@usmc.mil.* The Public Report can be accessed from the following Web sites: *http://www.luke.af.mil/library/factsheets/factsheet.asp?id=5028 http://www.yuma.usmc.mil/range/.*

SUPPLEMENTARY INFORMATION: The BMGR was established in 1941 and continues to be used by the U.S. Air Force and U.S. Marine Corps, and other Department of Defense components, primarily to train military aircrews to fly air combat missions. Encompassing more than 1.7 million acres of land in southwest Arizona, the BMGR is also nationally significant as a critical component in the largest remaining tract of relatively unfragmented and undisturbed Sonoran Desert in the United States.

In October 1999, Congress reconfirmed the nation's continuing need for the BMGR by passing the MLWA. This Act extended authorization for the BMGR as a military reservation for 25 years until 2024 and provided that the Secretaries of the Air Force, Navy, and Interior were to jointly prepare an INRMP for the range. As prescribed by the MLWA, the INRMP must include provisions for the proper management and protection of the natural and cultural resources of the BMGR, and for sustainable use by the public of such resources to the extent consistent with the military purposes of the range.

The MLWA assigned natural and cultural resource management authority for the BMGR to the Secretaries of the Air Force and the Navy for the east and west range lands, respectively. Thereafter, an Environmental Impact Statement (EIS) was prepared—in coordination with the U.S. Fish and Wildlife Service (led by the Cabeza Prieta National Wildlife Refuge), Arizona Game and Fish Department, and Bureau of Land Management (BLM)—to evaluate alternative methods to manage the natural resources and, where applicable, public use of the BMGR. The management decisions made based on the EIS and Record of Decision were used to develop the INRMP that was finalized in March 2007.

The MLWA also provided that the INRMP be prepared and implemented in accordance with the Sikes Act. The Sikes Act sets forth the Nation's resource management policies and guidance for U.S. military installations and requires the preparation of INRMPs for all installations with significant natural resources. The Sikes Act provides that the Secretary of Defense shall carry out a program to provide for the conservation and rehabilitation of natural resources that is consistent with the use of military installations to ensure the preparedness of the Armed Forces. The INRMP programs are to provide for (a) the conservation and rehabilitation of natural resources on military installations; (b) the sustainable multipurpose use of the resources, which shall include hunting, fishing, trapping and non-consumptive uses; and (c) public access to facilitate use, subject to safety requirements and military security.

The MLWA also mandates preparation of the aforementioned Public Report concurrent with each INRMP review cycle. The Public Report includes a summary of current military use of the lands, any changes in military use of the lands since the previous report, and efforts related to the management of natural and cultural resources and environmental remediation of the lands during the previous five years. Interested members of the public are invited to review and comment on the report. Public meetings are planned to facilitate that review and provide a forum for public input. The Public Report is available for review on the following Web sites: *http://www.luke.af.mil/library/factsheets/factsheet.asp?id=5028 and http://www.yuma.usmc.mil/range/.*

Henry Williams Jr.,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2012–15349 Filed 6–22–12; 8:45 am]

BILLING CODE 5001–10–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, July 11, 2012. The hearing will be part of the Commission's regularly scheduled business meeting. The conference session and business meeting both are open to the public and will be held at the Commission's office building located at 25 State Police Drive, West Trenton, New Jersey.

The morning conference session will begin at 11 a.m. and will include a presentation by representatives from the Schuylkill River Heritage Area on activities of the Schuylkill River Restoration Fund; and a resolution recognizing the valuable service of

former Pennsylvania Alternate Commissioner John T. Hines.

Items for Public Hearing. The subjects of the public hearing to be held during the 1:30 p.m. business meeting on July 11, 2012 include draft dockets for the projects described below. Draft dockets also will be posted on the Commission's Web site at *www.drbc.net.* ten days prior to the meeting date. Additional public records relating to the dockets may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

1. *Phoenixville Borough, D–1967–080 CP–3.* An application to renew the approval of an existing discharge from the 4.0 million gallons per day (mgd) Borough of Phoenixville wastewater treatment plant (WWTP). The WWTP will continue to discharge treated effluent to the Schuylkill River at River Mile 92.47—35.0 (Delaware River—Schuylkill River) via Outfall No. 001. The WWTP is located within the Commission's Southeastern Pennsylvania Ground Water Protected Area (GWPA) in the Borough of Phoenixville, Chester County, Pennsylvania.

2. *Mount Holly Municipal Utilities Authority, D–1970–133 CP–4.* An application to renew the approval of an existing discharge from the 6.0 mgd Mount Holly MUA WWTP. The WWTP will continue to discharge treated effluent, via Outfall No. 1, to the North Branch Rancocas Creek, located in Water Quality Zone 2, at River Mile 111.06—8.64—4.1 (Delaware River—Rancocas Creek—North Branch Rancocas Creek) in Mount Holly Township, Burlington County, New Jersey.

3. *Pen Argyl Municipal Authority, D–1975–028 CP–3.* An application to renew the approval of an existing discharge from the 0.95 mgd (hydraulic design flow) Pen Argyl Municipal Authority WWTP. No modifications to the Pen Argyl Municipal Authority WWTP are proposed. The facility is located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters. The WWTP will continue to discharge to an unnamed tributary of Waltz Creek, a tributary of Martins Creek, at River Mile 190.6—4.4—3.2—0.7 (Delaware River—Martins Creek—Waltz Creek—UNT to Waltz Creek) in the Borough of Pen Argyl, Northampton County, Pennsylvania.

4. *Hatfield Township Municipal Authority, D–1985–036 CP–2.* An application to renew the approval of an existing discharge from the 8.37 mgd Hatfield Township Municipal Authority WWTP. The WWTP will continue to discharge treated effluent to the West Branch Neshaminy Creek at River Mile 115.63—40.01—4.0 (Delaware River—Neshaminy Creek—West Branch Neshaminy Creek) via Outfall No. 001, within the Southeastern Pennsylvania GWPA, in Hatfield Township, Montgomery County, Pennsylvania.

5. *Pennsylvania American Water Company, D–1992–064 CP–3.* An application to renew the approval of an existing discharge from the 7.0 mgd Coatesville WWTP. The project WWTP will continue to discharge treated sewage effluent to the West Brach Brandywine Creek, a tributary of the Brandywine Creek, which is a tributary of the Christina River, at River Mile 70.7—1.5—20.0—15.5 (Delaware River—Christina River—Brandywine Creek—West Branch Brandywine Creek) in the Borough of South Coatesville, Chester County, Pennsylvania.

6. *Veolia Energy, D–1995–010 CP–2.* An application to renew the approval of the Tri-Gen Energy Generating Facility (TGEGF) and its subsidiary water allocation of up to 217 million gallons per month (mgm), supplied by Exelon's Schuylkill Generating Station (SGS) Intake No. 1. The water is used for cooling associated with power generation. The requested allocation is not an increase from the previous allocation. The TGEGF is located on the former PECO—Schuylkill site adjacent to the Exelon SGS and Veolia's GFCF in the City of Philadelphia, Pennsylvania.

7. *Paradise Stream Resort, D–2006–020–2.* An application to renew the approval of an existing discharge from the 0.05 mgd Paradise Stream Resort WWTP. The discharge is in the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters. The WWTP will continue to discharge treated effluent to Yankee Run, a tributary of Paradise Creek, which is a tributary of the Brodhead Creek at River Mile 213—13.7—6.0—1.0 (Delaware River—Brodhead Creek—Paradise Creek—Yankee Run) in Paradise Township, Monroe County, Pennsylvania.

8. *Royersford Borough, D–2006–045 CP–2.* An application to renew the approval of an existing discharge from the 1.0 mgd Royersford Borough WWTP. No modifications to the Royersford Borough WWTP are proposed. The WWTP will continue to discharge to the Schuylkill River via existing Outfall No. 001 at River Mile 92.47—41.03 (Delaware River—Schuylkill River), in Upper Providence Township, Montgomery County, Pennsylvania.

9. *Laurel Pipeline Company, LP, D–2007–040–2.* An application to renew the approval of an existing discharge from the 70,000 gallons per day (gpd) Booth Station industrial wastewater treatment plant (IWTP). The IWTP treats groundwater from three (3) remediation wells through the use of an air stripper treatment system. The IWTP will continue to discharge to the Green Creek at River Mile 82.9—8.5—2.4—2.4 (Delaware River—Chester Creek—West Branch Chester Creek—Green Creek) in Bethel Township, Delaware County, Pennsylvania.

10. *Ferro Corporation, D–1968–143–2.* An application to approve a modification of the existing 2.0 mgd Ferro IWTP. The proposed modification consists of the construction and installation of an outfall pipe extension with multi-port diffuser at the end of the existing IWTP outfall. No other modifications to the IWTP facilities are proposed. The IWTP will continue to discharge to Water Quality Zone 4 of the Delaware River at River Mile 79.0 in Logan Township, Gloucester County, New Jersey.

11. *Sunoco, Inc., D–1969–115–3.* An application to renew approval of the existing 10 mgd Girard Point Refinery (GPR) IWTP (Outfall No. 015) and two non-contact cooling water (NCCW) outfalls (Outfalls Nos. 004 and 011). The PADEP and DRBC have based effluent limits for each discharge at the GPR on flows of 6.22 mgd, 1.3 mgd, and 1.2 mgd, respectively. The project will continue to discharge to Water Quality Zone 4 of the Delaware River at or near River Mile 92.47—2.27 (Delaware River—Schuylkill River), in the City of Philadelphia, Pennsylvania.

12. *Lambertville Municipal Utilities Authority, D–1969–150 CP–2.* An application to approve work on the existing 1.5 mgd Lambertville Municipal Utilities Authority WWTP that was performed in the years 2010 and 2011. The LMUA WWTP will continue to discharge treated effluent to the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, at River Mile 148.4 (Delaware River) in the City of Lambertville, Hunterdon County, New Jersey.

13. *Warren County—Pequest River Municipal Utilities Authority, D–1971–096 CP–5.* An application for approval of upgrades to the existing 0.5 mgd Warren County MUA Oxford WWTP. Upgrades to the treatment facilities include replacing the existing conventional activated sludge treatment system with a modified ludzak process incorporating mixed media filtration. The discharge is located within the

drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters. The WWTP will continue to discharge treated effluent to the Pequest River at River Mile 197.8—7.2 (Delaware River—Pequest River), in Oxford Township, Warren County, New Jersey.

14. *Deposit Village, D–1974–057 CP–3.* An application to approve an existing discharge from the 0.7 mgd Village of Deposit WWTP. The WWTP was previously approved by the DRBC via Docket No. D–1974–057 CP–2 on December 12, 2006; however, the applicant submitted a docket renewal application after the expiration date of the docket (December 12, 2011). The applicant does not propose any modifications to the existing WWTP. The WWTP will continue to discharge to the West Branch Delaware River at River Mile 330.71—14.5 (Delaware River—West Branch Delaware River), within the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters. The facility is located in the Village of Deposit, Broome County, New York.

15. *Kent County Levy Court, D–1977–087 CP–3.* An application to approve the existing 16.3 mgd Kent County Levy Court WWTP. The WWTP treats domestic wastewater through the use of a biological nutrient removal (BNR) treatment system. The WWTP was previously approved by the DRBC via Docket No. D–1977–087 CP–2 on July 18, 2007; however, the docket holder submitted a docket renewal application after the expiration date of the docket (November 1, 2011). No modifications to the existing WWTP are proposed. The WWTP will continue to discharge to ''The Gut,'' a tidal tributary to the Murderkill River, which is a tidal tributary of the Delaware Estuary (Water Quality Zone 6) at River Mile 23.0—6.4—0.8 (Delaware River—Murderkill River—The Gut), in Milford Township, Kent County, Delaware.

16. *ArcelorMittal Plate, LLC, D–1979–026–2.* An application to modify the DRBC approval of the existing ArcelorMittal Conshohocken IWTP, including updating the approval to reflect the current facility operations and annual average flow of 1.2 mgd. No modifications to the IWTP are proposed. The IWTP will continue to discharge to the Schuylkill River at River Mile 92.47—21.5 (Delaware River- Schuylkill River) in Plymouth Township, Montgomery County, Pennsylvania.

17. *Grand Central Sanitary Landfill, Inc., D–1988–052–3.* An application to approve an existing discharge from the 0.1 mgd Grand Central Sanitary Landfill IWTP. The IWTP will continue to discharge treated leachate to the Little Bushkill Creek, a tributary of the Bushkill Creek, at River Mile 184.1—8.5—8.6 (Delaware River—Bushkill Creek—Little Bushkill Creek). The IWTP discharge was most recently approved by the DRBC via Docket No. D–1988–052 CP–2 on July 30, 2005; however, the docket holder submitted a docket renewal application after the expiration date of the docket (April 30, 2009). The IWTP is located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Plainfield Township, Northampton County, Pennsylvania.

18. *East Stroudsburg Borough, D–1992–072 CP–2.* An application to renew the approval of a groundwater withdrawal (GWD) and surface water withdrawal (SWWD) allocation to continue to withdraw up to 58.26 mgm of groundwater from existing Wells Nos. PW–1, PW–2, PW–3, and PW–4 and up to 62 mgm of surface water from Sambo Creek. Total water supply system allocation will remain at 77.5 mgm. The docket also approves an allocation of up to 77.5 mgm from the Michael Creek surface water diversion. All water diverted from Michael Creek is directed to the headwater of the Sambo Creek watershed to augment the supply of water available in the Sambo Creek reservoirs operated by the Borough. The allocation is requested in order to meet projected increases in service area demand and to provide water for emergency interconnections and bulk water sales interconnections with neighboring municipalities. The withdrawal wells are located in the Borough of East Stroudsburg in the Brodhead Creek Watershed and are completed in the Buttermilk Falls Formation and Pleistocene Sand and Gravel Aquifer. The project surface water withdrawals are located in the Michael Creek and Sambo Creek watersheds in Smithfield and Middle Smithfield Townships, Monroe County, Pennsylvania. All withdrawals/diversions are located within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.

19. *Delaware Water Gap Borough, D–1997–032 CP–2.* An application to renew the approval of an existing GWD of up to 11.0 mgm to supply the applicant's public water supply system from existing Wells Nos. 4, 6, and 7 in the Poxono Island and Bloomsburg Formations. The allocation is a decrease from the previous allocation of 15.5 mgm. The wells are located in the Delaware River and Cherry Creek Watersheds within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Delaware Water Gap Borough, Monroe County, Pennsylvania.

20. *Chalfont-New Britain Township Joint Sewage Authority, D–1999–063 CP–2.* An application to upgrade and expand the existing Chalfont-New Britain Township Joint Sewage Authority (CNBTJSA) WWTP. The project includes expanding the average annual design flow from 4.0 mgd to 4.625 mgd and modifying the influent pumping, grease/grit facility, equalizations basins, and oxidation ditch treatment process. The WWTP will remain at a hydraulic design capacity of 6 mgd and continue to discharge treated domestic effluent to the Neshaminy Creek at River Mile 115.63—37.4 (Delaware River—Neshaminy Creek) in Doylestown Township, Bucks County, Pennsylvania.

21. *Audubon Water Company, D–2004–004 CP–3.* An application to renew the approval of a GWD of up to 1.395 mgm to supply the applicant's public water supply system from new Well No. TP–4 and to retain the existing total system allocation of 51.45 mgm from 18 additional existing wells. The new well is located in the Stockton Formation in the Schuylkill River Watershed, within the Southeastern Pennsylvania GWPA, in Lower Providence Township, Montgomery County, Pennsylvania.

22. *Thompson Town, D–1985–075 CP–2.* An application to approve an existing discharge from the 0.5 mgd Sackett Lake WWTP. The WWTP will continue to discharge treated effluent to Sackett Creek at River Mile 261.1—4.6—3.37—1.29—3.82—2.17 (Delaware River—Mongaup River—Rio Reservoir—Mongaup River—Mongaup Falls Reservoir—Sackett Creek) via Outfall No. 001. The discharge is in the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters, in the Town of Thompson, Sullivan County, New York.

23. *Tennessee Gas Pipeline Company, LLC, D–2011–022–1.* An application to approve a SWWD to supply a temporary withdrawal of up to 5.946 mgm of water for the applicant's natural gas transmission pipeline upgrade project from two sources located on the Lackawaxen and Delaware Rivers. The allocation is requested to conduct horizontal directional drilling and

hydrostatic testing associated with the pipeline upgrade. The project also approves the discharge of hydrostatic testing water in three locations to the land surface after completion of hydrostatic testing. The project is located in Berlin, Texas, and Palmyra Townships in Wayne County, Pennsylvania, Westfall and Milford Townships in Pike County, Pennsylvania, and Montague Township in Sussex County, New Jersey. Portions of the project are located within the drainage area of sections of the non-tidal Delaware River known as the Upper and Middle Delaware, which are classified as Special Protection Waters.

24. *Reading Alloys, Inc., D–2011–023–1.* An application to approve an existing GWD and SWWD project to supply up to 0.57 mgm of groundwater to the applicant's manufacturing plant from existing Wells Nos. 3 and 4 and 14.5 mgm of surface water from existing Intake No. 1, for potable water and industrial cooling purposes, respectively. Intake No. 1 withdraws water from an on-site pond. The project is located in the Spring Creek Watershed in Heidelberg and South Heidelberg Townships, Berks County, Pennsylvania.

25. *Thompson Town, D–2011–025 CP–1.* An application to approve an existing discharge from the 0.038 mgd Melody Lakes WWTP. The WWTP will continue to discharge to Turner Brook at River Mile 253.64—14.52—7.05—2.27 (Delaware River—Neversink River—Bush Kill—Turner Brook) via Outfall No. 001. The WWTP is located within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in the Town of Thompson, Sullivan County, New York.

26. *Lower Bucks County Joint Municipal Authority, D–2012–001 CP–1.* An application to approve the discharge of up to 0.7 mgd of filter backwash from the existing Lower Bucks County Joint Municipal Authority (LBCJMA) Water Filtration Plant (WFP). The WFP will continue to discharge treated effluent to Water Quality Zone 2 of the tidal Delaware River at River Mile 122.3 (Delaware River) via Outfall No. 003, in Tullytown Borough, Bucks County, Pennsylvania.

27. *PECO Energy, D–2012–015–1.* An application to approve the withdrawal and discharge of up to 0.288 mgd (8.928 mgm) of groundwater and occasional stormwater captured by dewatering operations during the remediation of subsurface soils at the former PECO Energy Norristown Manufactured Gas Plant (MGP) site. Water captured during the excavation and removal of MGP impacted soils will be treated with a temporary on-site water treatment system and discharged to either the Norristown Municipal Waste Authority WWTP or the Schuylkill River at River Mile 92.47—23.5 (Delaware River—Schuylkill River). The project is located within the Southeastern Pennsylvania GWPA in Norristown Borough, Montgomery County, Pennsylvania.

Other Agenda Items. In addition to the hearings on draft dockets, during the 1:30 p.m. business meeting the Commissioners will consider a resolution authorizing the Executive Director to renew an agreement with the Academy of Natural Sciences of Drexel University for the analysis of ambient water and wastewater samples from the non-tidal Delaware River. The agenda also includes the standard business meeting items: Adoption of the Minutes of the Commission's May 10, 2012 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and a public dialogue session.

Opportunities to Comment. Individuals who wish to comment for the record on a hearing item or to address the Commissioners informally during the public dialogue portion of the meeting are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.state.nj.us* or by phoning Ms. Schmitt at 609–883–9500 ext. 224. Written comment on items scheduled for hearing may be submitted in advance of the meeting date to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522 or by email to *paula.schmitt@drbc.state.nj.us.* Written comment on dockets should also be furnished directly to the Project Review Section at the above address or fax number or by email to *william.muszynski@drbc.state.nj.us.*

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Agenda Updates. Note that conference items are subject to change and items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Please check the Commission's Web site, *www.drbc.net,* closer to the meeting date for changes that may be made after the deadline for filing this notice.

Dated: June 19, 2012.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 2012–15398 Filed 6–22–12; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Office of Postsecondary Education; Graduate Assistance in Areas of National Need (GAANN) Performance Report

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The overall goal of the Graduate Assistance in Areas of National Need (GAANN) program is to increase the number of students with degrees in areas of national need by providing fellowships through academic departments of institutions of higher education to assist graduate students of superior ability who demonstrate financial need.

DATES: Interested persons are invited to submit comments on or before July 25, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04846. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that Federal agencies provide interested

parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Graduate Assistance in Areas of National Need (GAANN) Performance Report.

OMB Control Number: 1840–0748.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 225.

Total Estimated Number of Annual Burden Hours: 2,475.

Abstract: GAANN grantees must submit a performance report annually. The reports are used to evaluate grantee performance. Further, the data from the reports will be aggregated to evaluate the accomplishments and impact of the GAANN Program as a whole. Results will be reported to the Secretary in order to respond to Government Performance and Results Act requirements.

Dated: June 18, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–15383 Filed 6–22–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Institute of Education Sciences; Education Longitudinal Study 2002 (ELS:2002) Third Follow-up Postsecondary Transcripts (ELS:2002 PETS) and Financial Aid Feasibility Study (ELS:2002 FAFS)

SUMMARY: The Education Longitudinal Study of 2002 (ELS:2002) is a nationally representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years.

DATES: Interested persons are invited to submit comments on or before August 24, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04873. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Education Longitudinal Study 2002 (ELS:2002) Third Follow-up Postsecondary Transcripts (ELS:2002 PETS) and Financial Aid Feasibility Study (ELS:2002 FAFS).

OMB Control Number: 1850–0652.

Type of Review: Revision .

Total Estimated Number of Annual Responses: 3,084.

Total Estimated Number of Annual Burden Hours: 2,382 .

Abstract: The Education Longitudinal Study of 2002 (ELS:2002) is a nationally representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years. Major topics covered for the postsecondary years include postsecondary education access, choice, and persistence; baccalaureate and sub-baccalaureate attainment; the work experiences of the non-college-bound; and other markers of adult status such as family formation, civic participation, and other young adult life course developments. Data collections took place in 2002, 2004, 2006 (two years out of high school), and now will take place in 2012, when most sample members are around 26 years of age. The third follow-up field test was conducted in 2011. This submission requests OMB's approval for the third follow-up 2012 full scale data collection.

Dated: June 15, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–15415 Filed 6–22–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Federal Student Aid; Electronic Debit Payment Option for Student Loans

SUMMARY: The Preauthorized Debit Account (PDA) Application is used to establish electronic debiting for individuals who have requested to have their defaulted federal education debt payments debited from their bank accounts.

DATES: Interested persons are invited to submit comments on or before August 24, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04879. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Electronic Debit Payment Option for Student Loans.

OMB Control Number: 1845–0025.

Type of Review: Revision and Extension.

Total Estimated Number of Annual Responses: 1,600.

Total Estimated Number of Annual Burden Hours: 133.

Abstract: An Electronic Debit Account Program gives the borrower the option to repay federally funded student loans via automatic debit deductions from their checking or savings accounts. The PDA payment option allows individuals with defaulted federal education debts (student loans or grant overpayments) held by the U.S. Department of Education's (ED's) Federal Student Aid Default Resolution Group to have their payments automatically debited from their checking or savings accounts and sent to ED. Individuals who choose the use the PDA option to make their payments must authorize ED to debit their bank accounts. The PDA Brochure and Application (PDA Application) explains the PDA payment option and collects the applicant's authorization for electronic debiting of payments and the bank account information needed by ED to debit the applicant's account.

The authority for the PDA option is provided under the Deficit Reduction Act of 1984, Public Law 98–368, and 31 CFR part 202, Depositaries and Financial Agents of the Government. Operating rules and regulations approved and published by the National Automated Clearing House Association (NACHA) and 31 CFR part 210 also govern the use of the PDA Application. Finally, Regulation E, issued and maintained by the Board of Governors of the Federal Reserve System, implements Title IX of the Consumer Credit Protection Act, as amended in 15 U.S.C. 1601. This regulation is designed to implement the act, which primarily serves to protect the interests of the individual consumer participating in electronic transfers.

ED has used the collection of information on the currently approved PDA Application to establish electronic debiting for individuals who have requested to have their defaulted federal education debt payments debited from their bank accounts.

Dated: June 15, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–15418 Filed 6–22–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Institute of Education Sciences; 2012–13 Teacher Follow-Up Survey (TFS:13) and Principal Follow-Up Survey (PFS:13) to the Schools and Staffing Survey (SASS)

SUMMARY: This request from the National Center for Education Statistics (NCES), of the U.S. Department of Education (ED), is for clearance for the full scale data collection for the 2012–13 Teacher Follow-up Survey (TFS:13) and Principal Follow-up Survey (PFS:13) to the 2011–12 Schools and Staffing Survey (SASS:12). The Schools and Staffing Survey (SASS) is an in-depth, nationally-representative survey of first through twelfth grade public and private school teachers, principals, schools, library media centers, and school districts.

DATES: Interested persons are invited to submit comments on or before August 24, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04872. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of

1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2012–13 Teacher Follow-up Survey (TFS:13) and Principal Follow-up Survey (PFS:13) to the Schools and Staffing Survey (SASS).

OMB Control Number: 1850–0598.

Type of Review: Revision.

Total Estimated Number of Annual Responses: 15,469.

Total Estimated Number of Annual Burden Hours: 2,876.

Abstract: This request from the National Center for Education Statistics (NCES), of the U.S. Department of Education (ED), is for clearance for the full scale data collection for the 2012–13 Teacher Follow-up Survey (TFS:13) and Principal Follow-up Survey (PFS:13) to the 2011–12 Schools and Staffing Survey (SASS:12). The seventh cycle of SASS (2011–12) is currently being conducted and the proposed TFS:13 will be the seventh corresponding cycle of TFS, while PFS:13 will be the second cycle of PFS. The Schools and Staffing Survey (SASS) is an in-depth, nationally-representative survey of first through twelfth grade public and private school teachers, principals, schools, library media centers, and school districts. Kindergarten teachers in schools with at least a first grade are also surveyed. For traditional public school districts, principals, schools, teachers, and school libraries, the survey estimates are state-representative. For public charter schools, principals, teachers, and school libraries, the survey estimates are nationally-representative. For private school principals, schools, and teachers, the survey estimates are representative of private school types. The TFS is a survey of teachers with the main purpose of providing a one-year teacher attrition rate. The PFS is a survey of principals that assesses how many school principals work in the same school as reported a year earlier in SASS:12, how many have moved to become a principal at another school, and how many have left the principalship altogether. Similar to earlier TFS collections, the TFS:13 sample of 7,000 teachers (drawn using a sampling design similar to that used in earlier TFS collections) is a sub-sample of the teachers who responded to SASS:12. The PFS:13 sample includes all of the approximately 9,800 schools whose principals completed questionnaires in SASS:12.

Dated: June 15, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–15416 Filed 6–22–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of deletion of existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) deletes one system of records from its existing inventory of systems of records subject to the Privacy Act.

DATES: This deletion is effective June 25, 2012.

FOR FURTHER INFORMATION CONTACT: Steven Zwillinger, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue SW., room 5066, Washington, DC 20202–6510. Telephone: (202) 245–7313.

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.

Individuals with disabilities may obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION: The Department deletes one system of records from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The deletion is not within the purview of subsection (r) of the Privacy Act, which requires submission of a report on a new or altered system of records.

This system of records is no longer needed because the study has been terminated and data is no longer being collected. The existing records have been destroyed therefore the following system of records is deleted:

1. (18–16–03) Study of Former Vocational Rehabilitation Consumers' Post-Program Experiences (Post-Vocational Rehabilitation Experiences Study), 72 FR 11340–11342 (March 13, 2007).

Electronic Access to This Document: The official versions of these documents are the documents 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: June 20, 2012.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

For the reasons discussed in the preamble, the Assistant Secretary of the Office of Special Education and Rehabilitative Services deletes the following system of records:

System No.	System name
18–16–03	Study of Former Vocational Rehabilitation Consumers' Post-Program Experiences (Post-Vocational Rehabilitation Experiences Study), 72 FR 11340–11342 (March 13, 2007).

[FR Doc. 2012–15435 Filed 6–22–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–802–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Prairieland Energy Negotiated Rate to be effective 7/1/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5018.
Comments Due: 5 p.m. ET 6/27/12.

Docket Numbers: RP12–803–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Removal of Expired Agreements to be effective 7/16/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5038.
Comments Due: 5 p.m. ET 6/27/12.

Docket Numbers: RP12–804–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 06/15/12 ROFR (Right of First Refusal) to be effective 7/15/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5040.
Comments Due: 5 p.m. ET 6/27/12.

Docket Numbers: RP12–805–000.
Applicants: Ryckman Creek Resources, LLC.
Description: NonConforming Service Agreements to be effective 7/16/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5082.
Comments Due: 5 p.m. ET 6/27/12.

Docket Numbers: RP12–806–000.
Applicants: El Paso Natural Gas Company.
Description: Opinion No. 517 Compliance for RP08–426–000 to be effective 5/1/2010.
Filed Date: 6/15/12.
Accession Number: 20120615–5135.
Comments Due: 5 p.m. ET 6/27/12.

Docket Numbers: RP12–807–000.
Applicants: Alliance Pipeline L.P.
Description: June 2012 Auction to be effective 6/19/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5139.
Comment Date: 5 p.m. ET 6/27/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 18, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15402 Filed 6–22–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–86–000.
Applicants: PacifiCorp.
Description: Amendment to Application of PacifiCorp.
Filed Date: 6/15/12.
Accession Number: 20120615–5170.
Comments Due: 5 p.m. ET 6/25/12.

Docket Numbers: EC12–111–000.
Applicants: Rocky Mountain Power, LLC, San Joaquin Cogen, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Rocky Mountain Power, LLC, et al.
Filed Date: 6/15/12.
Accession Number: 20120615–5112.
Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: EC12–112–000.
Applicants: High Majestic Wind II, LLC, High Majestic Interconnection Services, LLC.
Description: FPA Section 203 Application of High Majestic Wind II, LLC and High Majestic Interconnection Services, LLC.
Filed Date: 6/15/12.
Accession Number: 20120615–5175.
Comments Due: 5 p.m. ET 7/6/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2047–000.
Applicants: NorthWestern Corporation.
Description: Service Agreement No. 277—Ravalli County Electric Cooperative, Inc. to be effective 6/14/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5002.
Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2048–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3330; Queue No. X1–095 to be effective 6/6/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5051.
Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2049–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3329; Queue No. X1–049 to be effective 6/6/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5062.
Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2050–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3331; Queue No. X1–100 to be effective 6/6/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5070.
Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2051–000.
Applicants: SPS Alpaugh 50, LLC.
Description: Application for Market-Based Rate Authority (Re-File) to be effective 8/14/2012.
Filed Date: 6/15/12.
Accession Number: 20120615–5074.
Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2052–000.
Applicants: SPS Alpaugh North, LLC.

Description: Application for Market-Based Rate Authority (Re-File) to be effective 8/14/2012.

Filed Date: 6/15/12.

Accession Number: 20120615–5075.

Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2053–000.

Applicants: Southern California Edison Company.

Description: Amended and New Connection Agmts to the El Dorado System with LADWP, NPC, and SRP to be effective 6/16/2012.

Filed Date: 6/15/12.

Accession Number: 20120615–5092.

Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2054–000.

Applicants: Southwest Power Pool, Inc.

Description: 2432 TPW Madison, LLC GIA to be effective 5/18/2012.

Filed Date: 6/15/12.

Accession Number: 20120615–5119.

Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2055–000.

Applicants: San Gorgonio Farms, Inc.

Description: FERC Electric Tariff Volume No. 1 to be effective 6/15/2012.

Filed Date: 6/15/12.

Accession Number: 20120615–5124.

Comments Due: 5 p.m. ET 7/6/12.

Docket Numbers: ER12–2056–000.

Applicants: Avista Corporation.

Description: Avista Grant Interconnect and Operating Agreement to be effective 6/18/2012.

Filed Date: 6/15/12.

Accession Number: 20120615–5140.

Comments Due: 5 p.m. ET 7/6/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES12–45–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Application of Golden Spread Electric Cooperative, Inc. for Authorization to Issue Securities Pursuant to Section 204 of the Federal Power Act.

Filed Date: 6/15/12.

Accession Number: 20120615–5180.

Comments Due: 5 p.m. ET 7/6/12.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF12–413–000.

Applicants: Houweling Nurseries Oxnard, Inc.

Description: Houweling Nurseries Oxnard, Inc. submits FERC Form 556 Notice of Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility.

Filed Date: 06/15/2012.

Accession Number: 20120615–5178.

Comments Due: None Applicable.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM12–4–000.

Applicants: Public Service Company of New Mexico.

Description: Application of Public Service Company of New Mexico for Relief from Mandatory Purchase Obligation.

Filed Date: 6/15/12.

Accession Number: 20120615–5179.

Comments Due: 5 p.m. ET 7/13/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 18, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15403 Filed 6–22–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–808–000.

Applicants: Northern Natural Gas Company.

Description: 20120618 Miscellaneous Filing to be effective 7/19/2012.

Filed Date: 6/18/12.

Accession Number: 20120618–5044.

Comments Due: 5 p.m. ET 7/2/12.

Docket Numbers: RP12–809–000.

Applicants: Texas Gas Transmission, LLC.

Description: Modify ROFR Timeline to be effective 7/19/2012.

Filed Date: 6/18/12.

Accession Number: 20120618–5071.

Comments Due: 5 p.m. ET 7/2/12.

Docket Numbers: RP12–810–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Tenaska Gas Storage Negotiated Rate to be effective 6/18/2012.

Filed Date: 6/18/12.

Accession Number: 20120618–5093.

Comments Due: 5 p.m. ET 7/2/12.

Docket Numbers: RP12–811–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Tenaska—Negotiated Rate Filing to be effective 6/18/2012.

Filed Date: 6/18/12.

Accession Number: 20120618–5095.

Comments Due: 5 p.m. ET 2/1/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15404 Filed 6–22–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–76–000.

Applicants: NRG Solar Avra Valley, LLC.

Description: Notice of Self Certification of Exempt Wholesale Generator Status NRG Solar Avra Valley, LLC.

Filed Date: 6/13/12.

Accession Number: 20120613–5096.

Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: EG12–77–000.
Applicants: Spearville 3, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Spearville 3, LLC.
Filed Date: 6/13/12.
Accession Number: 20120613–5114.
Comments Due: 5 p.m. ET 7/5/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–753–001.
Applicants: RITELine Indiana, LLC.
Description: RITELine Indiana 20120613 Compliance to be effective 3/4/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5128.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2019–000
Applicants: NRG Solar Avra Valley LLC
Description: Application for Market-Based Rate Authority to be effective 8/13/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5082.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2020–000.
Applicants: Arizona Public Service Company.
Description: Modification to Section 3 of the APS LGIP to be effective 8/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5083.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2021–000.
Applicants: Klamath Generation LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5088.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2022–000.
Applicants: Klondike Wind Power LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5102.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2023–000.
Applicants: Sierra Pacific Power Company.
Description: Rate Schedule No. 33 Amended & Restated Operating Agrmt No. 3 Mt Wheeler to be effective 7/1/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5103.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2024–000.
Applicants: Klondike Wind Power II LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5104.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2025–000.
Applicants: Klondike Wind Power III LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5113.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2026–000.
Applicants: Leaning Juniper Wind Power II LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5123.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2027–000.
Applicants: Lempster Wind, LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5131.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2028–000.
Applicants: Locust Ridge Wind Farm, LLC.
Description: Tariff Revisions to be effective 6/14/2012.
Filed Date: 6/13/12.
Accession Number: 20120613–5132.
Comments Due: 5 p.m. ET 7/5/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 14, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15405 Filed 6–22–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1572–001.
Applicants: ITC Midwest LLC.
Description: Amendment of ITC Midwest LLC SMMPA O&M Agreement to be effective 4/20/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5139.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–1842–001.
Applicants: The Finerty Group, Inc.
Description: Amendment of Pending New to be effective 5/25/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5110.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2029–000.
Applicants: Locust Ridge II, LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5012.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2030–000.
Applicants: Manzana Wind LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5019.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2031–000.
Applicants: Mountain View Power Partners III, LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5020.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2032–000.
Applicants: New England Wind, LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5024.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2033–000.
Applicants: Pebble Springs Wind LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5025.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2034–000.
Applicants: Southern California Edison Company.
Description: Amended IFA with Inland Empire Energy Center to be effective 8/14/2012.

Filed Date: 6/14/12.
Accession Number: 20120614–5026.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2035–000.
Applicants: Southern California Edison Company.
Description: Amended Inland Empire Energy Center Tie-Line Agreement to be effective 8/14/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5027.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2036–000.
Applicants: Providence Heights Wind, LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5050.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2037–000.
Applicants: Spearville 3, LLC.
Description: Spearville 3 Baseline MBR Application Filing to be effective 7/23/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5051.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2038–000.
Applicants: San Luis Solar LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5052.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2039–000.
Applicants: Shiloh I Wind Project, LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5058.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2040–000.
Applicants: South Chestnut LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5059.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2041–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: Defined Term Revisions to be effective 8/14/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5062.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2042–000.
Applicants: Star Point Wind Project LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5064.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2043–000.
Applicants: Streator-Cayuga Ridge Wind Power LLC.
Description: Rate Schedule to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5066.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2044–000.
Applicants: Twin Buttes Wind LLC.
Description: Tariff Revisions to be effective 6/15/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5067.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2045–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: Amended Restated SGIA No. 1168 Among NYISO, Niagara Mohawk, and Albany Energy to be effective 5/2/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5132.
Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2046–000.
Applicants: Black Hills Power, Inc.
Description: Amended GDEMA to be effective 7/1/2012.
Filed Date: 6/14/12.
Accession Number: 20120614–5141.
Comments Due: 5 p.m. ET 7/5/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 15, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15406 Filed 6–22–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2005–0008; FRL–9517–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Emergency Planning and Release Notification Requirements Under Emergency Planning and Community Right-To-Know Act (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–SFUND–2005–0008, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; fax number: (202) 564–2620; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 16, 2012 (77 FR 9235), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–SFUND–2005–0008, which is

available for online viewing at *www.regulations.gov,* or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Superfund Docket is 202–566–0276.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Emergency Planning and Release Notification Requirements under Emergency Planning and Community Right-to-Know Act Sections 302, 303, and 304 (Renewal).

ICR number: EPA ICR No. 1395.08, OMB Control No. 2050–0092.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The authority for these requirements is sections 302, 303, and 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 1986 (42 U.S.C. 11002, 11003, and 11004). EPCRA established broad emergency planning and facility reporting requirements. Section 302 requires facilities to notify their state emergency response commission (SERC) that the facility is subject to emergency planning. This activity has been completed; this ICR covers only new facilities that are subject to this requirement. Section 303 requires the local emergency planning committees (LEPCs) to prepare emergency plans for facilities that are subject to section 302. This activity has been also completed; this ICR only covers any updates needed for these emergency response plans. Section 304 requires facilities to report to SERCs and LEPCs releases in excess of the reportable quantities listed for each extremely hazardous substance (EHS). This ICR also covers the notification and the written follow-up required under this section. The implementing regulations and the list of substances for emergency planning and emergency release notification are codified in 40 CFR part 355.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.4 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Chemical manufacturers, non-chemical manufacturers, retailers, petroleum refineries, utilities, etc.

Estimated Number of Respondents: 110,456.

Frequency of Response: Once, on occasion.

Estimated Total Annual Hour Burden: 267,206.

Estimated Total Annual Cost: $13,626,107, includes $0 annualized capital and $60,327 annualized O&M costs.

Changes in the Estimates: The number of respondents increased by 12,000 from the previous ICR. This is due to an increase in the number of reports of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) hazardous substance and Extremely Hazardous Substance (EHS) releases reported to the National Response Center in 2011. There is a decrease of 28,550 hours from the previous ICR due to adjustments for current burden estimates. There is a decrease of $8,392 O&M costs which is also due to adjustments to the estimates.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15343 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2012–0114; FRL–9518–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Hazardous Remediation Waste Management Requirements (HWIR–Media) (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2012–0114, to (1) EPA, either online using www.regulations.gov (our preferred method), or by email to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB, by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mike Fitzpatrick, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–8411; fax number 703–308–8617; email address: *fitzpatrick.mike@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 28, 2012 (77 FR 12046), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2012–0114, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Hazardous Remediation Waste Management Requirements (HWIR–Media) (Renewal).

ICR numbers: EPA ICR No. 1775.06, OMB Control No. 2050–0161.

I*CR Status:* This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Resource Conservation and Recovery Act of 1976 (RCRA), as amended, requires EPA to establish a national regulatory program to ensure that hazardous wastes are managed in a manner protective of human health and the environment. Under this program (known as the RCRA Subtitle C program), EPA regulates newly generated hazardous wastes, as well as hazardous remediation wastes (*i.e.,* hazardous wastes managed during cleanup). To facilitate prompt and protective treatment, storage, and disposal of hazardous remediation wastes, EPA established three requirements for remediation waste management sites that are different from those for facilities managing newly generated hazardous waste: (1) Performance standards for remediation waste management sites (40 CFR 264.1(j)); (2) a provision excluding remediation waste management sites from requirements for facility-wide corrective action; and (3) a new form of RCRA permit for treating, storing, and disposing of hazardous remediation wastes (40 CFR part 270, subpart H). The new permit, a Remedial Action Plan (RAP), streamlines the permitting process for remediation waste management sites to allow cleanups to take place more quickly.

In addition, EPA created a new kind of unit called a ''staging pile'' (40 CFR 264.554) that allows more flexibility in storing remediation waste during cleanup. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 32 hours per response. For Respondents in Private entities, it is estimated to average 28 hours per response. For Respondents in States, it is estimated to average 51 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Businesses or other for-profit, States.

Estimated Number of Respondents: 215.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 6,953 hours.

Estimated Total Annual Cost: $397,489, which includes $371,571 in annualized labor costs and $25,918 in annualized capital or O&M costs.

Changes in the Estimates: There is no change in the total estimated hour burden currently identified in the OMB Inventory of Approved ICR Burdens. There is an increase of $1,445 in O&M costs which is due to updating estimates to current levels.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15350 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0259; FRL–9518–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for the Surface Coating of Large Household and Commercial Appliances (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0259, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0259, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for the Surface Coating of Large Household and Commercial Appliances (Renewal).

ICR Numbers: EPA ICR Number 1954.05, OMB Control Number 2060–0457.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart NNNN. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart NNNN, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 98 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of surface coating of large household and commercial appliances facilities.

Estimated Number of Respondents: 102.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 32,634.

Estimated Total Annual Cost: $3,721,318, which includes $3,126,918 in labor costs, $64,000 in capital/startup costs, and $530,400 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden hours and cost for both the respondents and the Agency as currently identified in the OMB Inventory of Approved Burdens. This change is due to both an increase in the average number of respondents subject to the standard and an increase in labor rates. This ICR uses updated labor rates for each of the three labor categories.

There is also an increase in the O&M costs to the respondents. The costs were updated to reflect comments received during consultation.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15358 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0262; FRL–9519–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Semiconductor Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces

that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0262, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0262, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Semiconductor Manufacturing (Renewal).

ICR Numbers: EPA ICR Number 2042.05, OMB Control Number 2060–0519.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart BBBBB.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 19 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are the owners or operators of semiconductor manufacturing plants.

Estimated Number of Respondents: 1.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 37.

Estimated Total Annual Cost: $3,576, which includes $3,526 in labor costs, no capital/startup costs, and $50 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and they are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or nonexistent, so there is no significant change in the overall burden.

There is an increase in respondent and Agency costs resulting from labor rate increases since the last renewal. This ICR uses updated labor rates from the most recently available data for each of the three labor categories.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15369 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0255; FRL–9517–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Flexible Polyurethane Foam Fabrication (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted

below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0255, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0255, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Flexible Polyurethane Foam Fabrication (Renewal).

ICR Numbers: EPA ICR Number 2027.05, OMB Control Number 2060–0516.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication are subject to the General Provisions (40 CFR part 63, subpart A) and any changes, or additions to the Provisions (40 CFR part 63, subpart MMMMM). Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart MMMMM, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 90 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously- applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of flexible polyurethane foam fabrication.

Estimated Number of Respondents: 14.

Frequency of Response: Initially, occasionally, annually, and semiannually.

Estimated Total Annual Hour Burden: 15,601.

Estimated Total Annual Cost: $1,497,553, which includes $1,494,882 in labor costs, $997 in capital/startup costs, and $1,674 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in burden hours for both the respondents and the Agency in this ICR compared to the previous ICR. This is because there are, on average, 3 more existing units subject to this standard due to a growth in the respondent universe during the past three years.

There is also an increase in the total labor and Agency costs as currently identified in the OMB Inventory of Approved Burdens. The change in cost estimates reflects an increase in respondent numbers, as described above, and updated labors rates available from the Bureau of Labor Statistics.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15371 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0052; FRL–9518–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Risk Management Program Requirements and Petitions To Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0052, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–8019; fax number: 202–564–2625; email address: *jacob.sicy@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 16, 2012 (77 FR 9237), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0052, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under Section 112(r) of the Clean Air Act (Renewal).

ICR numbers: EPA ICR No. 1656.14, OMB Control No. 2050–0144.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The 1990 Clean Air Act (CAA) Amendments added section 112(r) to provide for the prevention and mitigation of accidental releases. Section 112(r) mandates that EPA promulgate a list of ''regulated substances'' with threshold quantities and establish procedures for the addition and deletion of substances from the list of regulated substances. Processes at stationary sources that contain more than a threshold quantity of a regulated substance are subject to accidental release prevention regulations promulgated under CAA section 112(r)(7). These two rules are codified as 40 CFR part 68. Part 68 requires that sources with more than a threshold quantity of a regulated substance in a process develop and implement a risk management program and submit a risk management plan to EPA. The compliance schedule for the Part 68 requirements, established by rule on June 20, 1996, requires the implementation of the source risk management programs and the submission of initial Risk Management Plan (RMP)'s by June 21, 1999, and at least every five years after the initial submission. Sources must resubmit earlier than their next five-year deadline if they undergo certain changes to their covered processes as specified in Part 68. Therefore, after the initial submission, some sources re-submitted their RMPs prior to the next 5-year deadline because they had process changes that required an earlier update. These sources were then assigned a new five-year resubmission deadline based on the date of their revised plan submission. Most covered sources had no significant changes to their covered processes and therefore resubmitted their updated RMP on June 21, 2004. This same pattern continued through the next submission cycle—some sources updated and resubmitted their RMP prior to their next five-year deadline and were assigned a new (off-cycle) five-year deadline, but a majority of sources submitted their updated RMP on or near the next scheduled five-year resubmission deadline (June 2009). Similarly, while most sources' next submission is due in June 2014, because of off-cycle resubmission deadlines assigned to sources who have resubmitted RMPs prior to their next 5-year resubmission date, only a portion of the RMP-regulated universe has a submission deadline of June 21, 2014.

Other than the costs for gathering information and filling out the on-line RMP form, the regulations require sources to maintain on-site documentation, perform a compliance audit every three years, provide refresher training to employees, perform a hazard analysis at least every five years, etc. Some of these activities are expected to occur annually or are on-going. Some are required every three years or every five years, unless there

are changes at the facility. Therefore, the burden and costs incurred by sources vary from ICR to ICR. The five-year resubmission deadline set by the regulations or assigned by EPA based on the latest RMP resubmission also will cause the burden to vary from ICR to ICR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 18 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Chemical manufacturers, petroleum refineries, water treatment systems, non-chemical manufacturers, states.

Estimated Number of Respondents: 13,558 facility respondents and 15 implementing agencies.

Frequency of Response: Every five years, unless the facilities need to update their previous submission.

Estimated Total Annual Hour Burden: 80,546.

Estimated Total Annual Cost: $6,736,212 in labor costs. There are no capital or O&M costs associated with this ICR.

Changes in the Estimates: There is a decrease of 13,436 hours for all sources and states from the previous ICR. The burden varies from ICR to ICR due to different resubmission deadlines based on the sources' RMP re-submission deadline and other regulatory deadlines. Therefore, the burden changes each year depending on how many sources have to submit their RMP and comply with certain prevention program requirements. The number of sources subject to the regulations fluctuates regularly, and is lower than in the previous ICR (13,718 sources in the previous ICR vs. 13,558 in this ICR period).

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15370 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0257; FRL–9518–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Reinforced Plastic Composites Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0257, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0257, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Reinforced Plastic Composites Production (Renewal)

ICR Numbers: EPA ICR Number 1976.05, OMB Control Number 2060–0509.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart WWWW.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or

operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart WWWW, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of reinforced plastic composites production facilities.

Estimated Number of Respondents: 552.

Frequency of Response: Initially, and semiannually.

Estimated Total Annual Hour Burden: 19,312.

Estimated Total Annual Cost: $1,874,090, which includes $1,850,478 in labor costs, no capital/startup costs, and $23,612 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in burden hours to the both the respondents and the Agency as compared to the most recently approved ICR. The increase is due to industry growth in the past three years, resulting in additional number of respondents that are subject to this standard. The growth in respondent universe also results in an increase in the total O&M costs.

In addition, there is an increase in burden costs to both the respondent and the Agency due to an adjustment in labor rates. This ICR uses the most recent labor rates from the Bureau of Labor Statistics in calculating the labor costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15365 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0258; FRL–9518–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Paper and Other Web Coating (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 25, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0258, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0258, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Paper and Other Web Coating (Renewal).

ICR Numbers: EPA ICR Number 1951.05, OMB Control Number 2060–0511.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The NESHAP for Paper and Other Web Coating is subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes or additions to the Provisions are specified at 40 CFR part 63, subpart JJJJ.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 22 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of paper and other coating facilities.

Estimated Number of Respondents: 233.

Frequency of Response: Initially, occasionally, monthly, and semiannually.

Estimated Total Annual Hour Burden: 11,861.

Estimated Total Annual Cost: $2,069,373, which includes $1,136,498 in labor costs, $233,500 in capital/startup costs, and $699,375 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in labor hours and costs for both the respondents and the Agency from the most recently approved ICR. The increase in burden cost is due to adjustments in labor rates. This ICR uses updated labor rates from the U.S. Bureau of Labor Statistics to calculate burden costs. The increase in labor hours is due to an increase in the number of respondents subject to the standard from the previous ICR. The growth in the respondent universe also results in an increase of the total O&M costs to the respondents.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15352 Filed 6–22–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments on renewal of the information collection described below.

DATES: Comments must be submitted on or before August 24, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Applicant Background Questionnaire.

OMB Number: 3064–0138.

Form Number: FDIC 2100/14.

Frequency of Response: On occasion.

Affected Public: FDIC job applicants who are not current FDIC employees.

Estimated Number of Respondents: 30,000.

Estimated Time per Response: 3 minutes.

Total Annual Burden: 1500 hours.

General Description of Collection: The FDIC Applicant Background Questionnaire is completed voluntarily by FDIC job applicants who are not current FDIC employees. Responses to questions on the survey provide information on gender, age, disability, race/national origin, and to the applicant's source of vacancy announcement information. Data is used by the Office of Minority and Women Inclusion and the Human Resources Branch to evaluate the effectiveness of various recruitment methods used by the FDIC to ensure that the agency meets workforce diversity objectives.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the 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 the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 19th day of June 2012.

Federal Deposit Insurance Corporation.

Robert Feldman,

Executive Secretary.

[FR Doc. 2012–15318 Filed 6–22–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 2012.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *FVNB Corp., MOW/RPW II, Ltd., and MOW/RPW Holdings II, LLC, all of Victoria, Texas;* to acquire 100 percent of First State Bank, New Braunfels, Texas.

Board of Governors of the Federal Reserve System, June 20, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–15411 Filed 6–22–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *LaPorte Savings Bank, MHC, LaPorte, Indiana,* a mutual holding company, proposes to convert to stock form and merge with LaPorte Bancorp, Inc., an existing savings and loan holding company. The existing LaPorte Bancorp, Inc., will merge with a new company, also called LaPorte Bancorp, Inc., which will become a savings and loan holding company through the acquisition of 100 percent of the outstanding stock of The LaPorte Savings Bank, all of La Porte, Indiana.

Board of Governors of the Federal Reserve System, June 20, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–15412 Filed 6–22–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0152: Docket 2012–0076; Sequence 16]

Information Collection; Service Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0152).

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning service contracting.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulation (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 24, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0152, Service Contracting, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0152, Service Contracting''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0152, Service Contracting'' on your attached document.
- *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0152, Service Contracting.

Instructions: Please submit comments only and cite Information Collection 9000–0152, Service Contracting, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 501–0136 or via email at *marissa.petrusek@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

The policies implemented at FAR 37.115, Uncompensated Overtime, are based on Section 834 of Public Law 101–510 (10 U.S.C. 2331). The policies require insertion of FAR provision 52.237–10, Identification of Uncompensated Overtime, in all solicitations valued above the simplified acquisition threshold, for professional or technical services to be acquired on the basis of the number of hours to be provided. The provision requires that offerors identify uncompensated overtime hours, in excess of 40 hours per week, and the uncompensated overtime rate for direct charge Fair Labor Standards Act—exempt personnel. This permits Government contracting officers to ascertain cost realism of proposed labor rates for professional employees and discourages the use of uncompensated overtime.

B. Annual Reporting Burden

Number of Respondents: 19,906.

Responses per Respondent: 1.

Annual Responses: 19,906.

Average Burden Hours per Response: .5.

Total Burden Hours: 9,953.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0152, Service Contracting, in all correspondence.

Dated: June 15, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–15399 Filed 6–22–12; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0014; Docket 2012–0001; Sequence 5]

Federal Supply Service; Submission for OMB Review; Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet

AGENCY: Federal Acquisition Service, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Standard Form (SF) 123, transfer order-surplus personal property and continuation sheet. A notice was published in the **Federal Register** at 77 FR 12840, on March 2, 2012. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: July 25, 2012.

FOR FURTHER INFORMATION CONTACT: Joyce Spalding, Property Disposal Specialist, Federal Acquisition Service, at telephone (703) 605–2888 or via email to *joyce.spalding@gsa.gov.*

ADDRESSES: Submit comments identified by *Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet,* by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet'' on your attached document.

• *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet.

Instructions: Please submit comments only and cite Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet is used by public agencies, nonprofit educational or public health activities, programs for the elderly, service educational activities, and public airports to apply for donation of Federal surplus personal property. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

B. Annual Reporting Burden

Respondents: 36,367.

Responses per Respondent: 1.

Hours per Response: 0.01783.

Total Burden Hours: 648.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0014, Standard Form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet, in all correspondence.

Dated: June 13, 2012.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2012–15467 Filed 6–22–12; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[Notice–FTR–2012–01; Docket 2012–0004; Sequence 4]

Federal Travel Regulation (FTR): Relocation Allowances; Notice of Public Meeting

AGENCY: Office of Governmentwide Policy (OGP), U.S. General Services Administration (GSA).

ACTION: Notice of Public Meeting.

SUMMARY: The General Services Administration (GSA), Office of Governmentwide Policy (OGP) will be conducting an industry day where the relocation industry, the public and Federal agencies are encouraged to inform GSA of industry best practices or opportunities for improvement in the Federal Travel Regulations (FTR) in the sections pertaining to Federal employee relocation. Specifically, this is an effort to increase relocation efficiency and effectiveness, while incorporating industry best practices. Additional goals of this effort are to allow for open transparency, an exchange of ideas, and provide agency flexibility.

DATES: The meeting will take place on July 31, 2012, at GSA Headquarters Building, 1800 F Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Davis, GSA, 1275 First Street NE., Washington, DC 20417; telephone: (202) 208–7638; or email: *ed.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

GSA under applicable authorities, such as 5 U.S.C. 5707; 5 U.S.C. 5738; 5 U.S.C. 5756; 20 U.S.C. 905(a); E.O. 11609; 13 FR 13747; and 3 CFR 1971–1975 Comp., p. 586; is currently addressing the FTR Chapter 302—Relocation Allowances and related appendices. The last major rewrite of the FTR took place in 2011.

Meeting Details

Place: The one day public meeting will be held at the GSA's Auditorium, 1800 F Street NW., Washington, DC 20405. The meeting is open to industry and the general public beginning at 9:00 a.m. EST through 4 p.m. EST.

Attendance: The event is open to the public based upon space availability. Attendees and speakers must pre-register. A limited number of speakers will be allowed to make oral presentations based upon space and on a first-come, first-serve basis.

Pre-registration: To pre-register, as an attendee or speaker, contact Mr. Davis by email as detailed above. Participants interested in speaking should indicate the category they would like to address, your name, company name or organization (if applicable), telephone number and email no later than the close of business on July 14, 2012.

Agenda: Presentations from industry and the public will be time limited. Each registered presenter will be allotted a total of 20 minutes.

Statements and Presentations: Send written or electronic statements and requests to make oral presentations to the contact person listed above. Submissions must be provided to Mr. Davis at *ed.davis@gsa.gov* no later than the close of business on July 14, 2012.

Information on Services for Individuals with Disabilities: Individuals requiring special accommodations at the meeting, please contact Mr. Davis no later than the close of business on July 14, 2012.

Dated: June 18, 2012.

Janet C. Dobbs,

Deputy Associate Administrator, Office of Asset and Transportation Management .

[FR Doc. 2012–15432 Filed 6–22–12; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting: Board of Scientific Counselors, National Center for Injury Prevention and Control, Secondary Review

The meeting announced below concerns, FOA CE12–004: Characterizing the Short and Long Term Consequences of Traumatic Brain Injury (TBI) among Children in the United States (U01); CE12–005: Field Triage of Traumatic Brain Injury (TBI) in Older Adults Taking Anticoagulants or Platelet Inhibitors (U01); CE12–006: Alcohol-related Motor Vehicle Injury Research (U01); and CE12–007: Research to Prevent Prescription Drug Overdoses (U01).

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11 a.m.–1 p.m., July 12, 2012 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will conduct the secondary review, discussion of competitive applications following initial review of applications received in response to FOA CE12–004: Characterizing the Short and Long Term Consequences of Traumatic Brain Injury (TBI) among Children in the United States (U01); CE12–005: Field Triage of Traumatic Brain Injury (TBI) in Older Adults Taking Anticoagulants or Platelet Inhibitors (U01); CE12–006: Alcohol-related Motor Vehicle Injury Research (U01); and CE12–007: Research to Prevent Prescription Drug Overdoses (U01).

Contact Person for More Information: Gwendolyn Haile Cattledge, Ph.D., M.S.E.H., F.A.C.E., Deputy Associate Director for Science, CDC, 4770 Buford Highway, Atlanta, Georgia 30341, Telephone: (404) 488–1430.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 19, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–15431 Filed 6–22–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care Development Fund (CCDF)—Reporting Improper Payments—Instructions for States.

OMB No.: 0970–0323.

Description: Section 2 of the Improper Payments Act of 2002 provides for estimates and reports of improper payments by Federal agencies. Subpart K of 45 CFR, Part 98 will require States to prepare and submit a report of errors occurring in the administration of CCDF grant funds once every three years.

The Office of Child Care (OCC) is completing the second 3-year cycle of case record reviews to meet the requirements for reporting under IPIA. The OCC has conducted ongoing evaluation of the case record review process to determine if ''improper

authorizations for payment'' remained a suitable proxy for actual ''improper payments.'' It is OCC's determination that in some cases authorizations for payment represented the same figure as actual payments; in other cases authorizations for payment has represented a figure as much as 20% higher than actual payments. Many States reported errors found during the desk audit review process that were due to missing or insufficient documentation or other misapplication of policy, but found that families were determined to be eligible for services and that the actual payment authorized was correct. Other States reported regulatory barriers in State law which prohibits recovery of over-authorization or over-payment as the result of agency error. As such, this information collection will provide a methodology revision that will assess errors in eligibility determinations that will compare the amount authorized for payment with the actual payment.

Respondents: State grantees, the District of Columbia, and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Sampling Decisions and Fieldwork Preparation Plan	17	1	106	1,802
Record Review Worksheet	17	276	6.33	29,700.36
State Improper Authorizations for Payment Report	17	1	639	10,863
Corrective Action Plan	8	1	156	1,248

Estimated Total Annual Burden Hours: 43,613.36.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–15351 Filed 6–22–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Court Improvement Program.

OMB No.: 0970–0307.

Description: From the funds appropriated for the Promoting Safe and Stable Families Program (PSSF), $10 million is reserved annually for each of three grants to facilitate the State Court Improvement Program (CIP) to facilitate court improvement in the handling of child abuse and neglect cases.

The Court Improvement Program (CIP) is composed of three grants, the basic, data, and training grants, governed by two separate Program Instructions (PIs). The training and data grants are governed by the ''new grant'' PI and the basic grant is governed by the ''basic grant'' PI. Current PIs require separate applications and program assessment reports for each grant. Every State applies for at least two of the grants annually and most States apply for all three. As many of the application requirements are the same for all three grants, this results in duplicative work and high degrees of repetition for State courts applying for more than one CIP grant.

The purpose of this Program Instruction is to streamline and simplify the application and reporting processes by consolidating the PIs into one single PI and requiring one single, consolidated application package and program assessment report per State court annually. These revisions will satisfy statutory programmatic requirements and reduce both the number of required responses and associated total burden hours for State courts. This new PI also describes programmatic and fiscal provisions and reporting requirements for the grants, specifies the application submittal and approval procedures for the grants for fiscal years 2012 through 2015, and identifies technical resources for use by State courts during the course of the grants. The agency uses the information received to ensure compliance with the statute and provide training and technical assistance to the grantees.

Respondents: State Courts.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	92	4,784
Annual Reports	52	1	86	4,472

Estimated Total Annual Burden Hours: 9,256.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–15389 Filed 6–22–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Oncologic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Oncologic Drugs Advisory Committee. This meeting was announced in the **Federal Register** of May 31, 2012 (77 FR 32125–32126). The amendment is being made to reflect a change in the *Date and Time,* and *Procedure* portions of the document. The *Date and Time* of the meeting will change to July 24, 2012, from 8 a.m. to 6 p.m. The *Procedure* portion of the document has changed to reflect an updated public participation time of 10:30 a.m. to 11 a.m., and 4:30 p.m. to 5 p.m. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Caleb Briggs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 31, 2012, FDA announced that a meeting of the Oncologic Drugs Advisory Committee would be held on July 24, 2012. On page 32125, in the third column, the *Date and Time* portion of the document is changed to read as follows:

Date and Time: The meeting will be held on July 24, 2012 from 8 a.m. to 6 p.m.

On page 32126, in the first column, the third sentence in the *Procedure* portion of the document is changed to read as follows:

Procedure: Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m., and 4:30 p.m. to 5 p.m.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: June 20, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–15393 Filed 6–22–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Sciences.

Date: July 17–18, 2012.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Maqsood A Wani, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: July 18, 2012.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, ROOM # 6164, Bethesda, MD 20892, 301–435–1044, *campdm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 19, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15473 Filed 6–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Phase II Trials in Lung Disease.

Date: July 12, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Stephanie L Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 14, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15472 Filed 6–22–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Enhancing Substance Abuse Treatment Services To Address Hepatitis Infection Among Intravenous Drug Users Hepatitis Testing and Vaccine Tracking Form (OMB No. 0930–0300)—Reinstatement and Extension

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center Substance Abuse Treatment (CSAT), is responsible for the Hepatitis Testing and Vaccine Tracking Form for the prevention of Viral Hepatitis in patients in designated Opioid Treatment Programs (OTPs). There are no changes to the form or added burden.

This form allows SAMHSA/CSAT to collect essential Clinical information that will be used for quality assurance, quality performance and product monitoring on approximately 264 Rapid Hepatitis C Test kits and 10,628 doses of hepatitis vaccine (Twinrix, HAV, or HBV). The above kits and vaccines will be provided to designated OTPs serving the minority population in their communities. The information collected on the Form solicits and reflect the following information:

- Demographics (age, gender, ethnicity) of designated OTP site
- History (Screening) of Hepatitis C exposure
- Results of Rapid Hepatitis C Testing (Kit) and Follow-up information
- Service Provided (type of vaccine given) Divalent vaccine (Twinrix-combination HAV and HBV) or Monovalent vaccine (HAV and/or HBV)
- Substance Abuse Treatment Outcomes (Information regarding the beginning, continuing or completion of vaccination series)
- Type of Referral Services Indicated (i.e., Gastroenterology, TB; Mental Health, Counseling, Reproductive/ Prenatal, etc.)

This program is authorized under Section 509 of the Public Health Service (PHS) Act [42 U.S.C. 290bb–2].

The form increases the screening and reporting of viral hepatitis in high risk minorities in OTPs. The information collected allows SAMHSA to address the increased morbidity and mortality of hepatitis in minorities being treated for drug addiction.

The SAMHSA/CSAT Hepatitis Testing and Vaccine Tracking Form supports quality of care, provide minimum but adequate clinical and product monitoring, and provide appropriate safeguards against fraud, waste and abuse of Federal funds.

The table below reflects the annualized hourly burden.

Number of respondents screened	Responses/ respondent	Burden hours	Total burden hours
50,000	1	0.05	2,500

Written comments and recommendations concerning the proposed information collection should be sent by July 25, 2012 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2012–15414 Filed 6–22–12; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0026]

Committee Name: Homeland Security Academic Advisory Council

AGENCY: Department of Homeland Security.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Academic Advisory Council (HSAAC) will meet on July 10, 2012 in Washington, DC. The meeting will be open to the public.

DATES: The HSAAC will meet Tuesday, July 10, 2012, from 10 a.m. to 4 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue NW., Floor B, Room B1.5–10, Washington, DC 20004. All visitors to the Ronald Reagan International Trade Center must bring a Government-issued photo ID. Please use the main entrance on 14th Street NW.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, send an email to *AcademicEngagement@hq.dhs.gov* or contact Lindsay Burton at 202–447–4686 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Comments must be submitted in writing no later than Tuesday, July 3, 2012, and must be identified by DHS–2012–0026 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AcademicEngagement@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–447–3713.
- *Mail:* Academic Engagement; MGMT/Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW., Washington, DC 20528–0440.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, to read background documents or comments received by the Homeland Security Academic Advisory Council, go to *http://www.regulations.gov.*

Two fifteen-minute public comment periods will be held during the meeting on July 10, 2012, the first occurring between approximately 11 a.m. and 12:30 p.m.; the second occurring between approximately 2:30 p.m. and 4 p.m. Speakers will be requested to limit their comments to three minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the Office of Academic Engagement as indicated below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lindsay Burton, Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW., Washington, DC 20528–0440, email: *AcademicEngagement@hq.dhs.gov,* tel: 202–447–4686 and fax: 202–447–3713.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). The HSAAC provides advice and recommendations to the Secretary and senior leadership on matters relating to student and recent graduate recruitment; international students; academic research; campus and community resiliency, security and preparedness; and faculty exchanges.

Agenda: The five HSAAC subcommittees (Student and Recent Graduate Recruitment, Homeland Security Academic Programs, Academic Research and Faculty Exchange, International Students, and Campus Resilience) will give progress reports and may present draft recommendations for action in response to initial taskings issued by Secretary Napolitano at the March 20, 2012 full committee meeting, including: How to attract student interns, student veterans, and recent graduates to jobs at DHS; how to use social media and other means of communication to most effectively reach this audience; how to ensure that students and recent graduates of Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and other Minority Serving Institutions know of and take advantage of DHS internship and job opportunities; how to define the core elements of a homeland security degree at the Associates, Bachelors and Masters levels; how to apply the TSA Associates Program model to other segments of the DHS workforce who wish to pursue a community college pathway; how to form relationships with 4-year schools so that DHS employees' credits transfer towards a higher level degree; how to enhance existing relationships between FEMA's Emergency Management Institute and the higher education community to support Presidential Policy Directive 8 (PPD–8), expand national capability, and support a whole community approach; how to expand DHS cooperation with the Department of Defense academies and schools to provide DHS' current employees with educational opportunities; how academic research can address DHS' biggest challenges; how DHS operational Components can form lasting relationships with universities to incorporate scientific findings and R&D into DHS' operations and thought processes; how universities can effectively communicate to DHS emerging scientific findings and technologies that will make DHS operations more effective and efficient; how to create a robust staff/faculty exchange program between academe and DHS; how DHS can improve its international student processes and outreach efforts; how DHS can better communicate its regulatory interpretations, policies and procedures to the academic community; how DHS can accommodate and support emerging trends in international education; how colleges and universities use specific capabilities, tools, and processes to enhance campus and community resilience as well as the cyber and physical infrastructure; how DHS' grant programs may be adjusted to support resiliency-related planning and improvements; how campuses can better integrate with community planning and response entities; how to implement the whole community approach and preparedness culture within student and neighboring communities; how to strengthen ties between DHS' Federal Law Enforcement Training Center and campus law enforcement professionals; and how DHS can better coordinate with individual campus IT departments on the risks towards and attacks on computer systems and networks.

Responsible DHS Official: Lauren Kielsmeier, *AcademicEngagement@hq.dhs.gov,* 202–447–4686.

Dated: June 19, 2012.

Lauren Kielsmeier,

Executive Director for Academic Engagement.

[FR Doc. 2012–15430 Filed 6–22–12; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2012–0017; OMB No. 1660–0059]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will

submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before July 25, 2012.

ADDRESSES: 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 Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: National Flood Insurance Program Call Center and Agent Referral Enrollment Form.

Type of information collection: Revision of a currently approved information collection.

Form Titles and Numbers: FEMA Form 517–0–1, National Flood Insurance Program Agent Site Registration and FEMA Form 512–0–1, National Flood Insurance Program Agent Referral Questionnaire.

Abstract: The information collection serves two purposes: (1) It allows the NFIP to service requests for flood insurance information or agent referral services from potential purchases through calls to the toll-free number or by visiting the Web site, and (2) it allows insurance agents to enroll in the Agent Referral Program and Agent Co-OP Program. If the request includes an insurance agent referral, the name and business address of insurance agents in the caller's geographic area who are enrolled in the referral service are provided.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Estimated Number of Respondents: 56,645.

Estimated Total Annual Burden Hours: FEMA form 512–0–1, .05 hours; and FEMA Form 517–0–1 (including electronic submission), .033 hours.

Estimated Cost: There are no recordkeeping, capital, start-up maintenance costs associated with this information collection.

Dated: June 20, 2012.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–15419 Filed 6–22–12; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2012–0015; OMB No. 1660–0131]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, State Preparedness Report

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before July 25, 2012.

ADDRESSES: 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 Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: State Preparedness Report.

Type of information collection: Extension, without change, of a previously approved collection.

OMB Number: 1660–0131.

Form Titles and Numbers: None.

Abstract: This State Preparedness Report is a Web-based survey that is combined with the National Incident Management System Compliance Assessment Support Tool (NIMSCAST) that will be used to respond to the congressional mandate for the Federal Emergency Management Agency (FEMA), to conduct nationwide assessments of emergency preparedness.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents: 56.

Estimated Total Annual Burden Hours: 3696.

Estimated Cost: There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

Dated: June 18, 2012.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–15464 Filed 6–22–12; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4064–DR; Docket ID FEMA–2012–0002]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Oklahoma (FEMA–4064–DR), dated June 14, 2012, and related determinations.

DATES: Effective June 15, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William J. Doran III, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Nancy M. Casper as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–15456 Filed 6–22–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4063–DR; Docket ID FEMA–2012–0002]

Kansas; Major Disaster Declaration and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–4063–DR), dated May 24, 2012, and related determinations.

DATES: Effective May 24, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 24, 2012, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of April 14–15, 2012, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Stephen R. Thompson, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Kansas have been designated as adversely affected by this major disaster:

Edwards, Ellsworth, Harper, Hodgeman, Jewell, Kiowa, Mitchell, Osborne, Rice, Rush, Russell, Sedgwick, Stafford, and Sumner Counties for Public Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–15460 Filed 6–22–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4062–DR; Docket ID FEMA–2012–0002]

Hawaii; Major Disaster Declarations and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–4062–DR), dated April 18, 2012, and related determinations.

DATES: Effective April 18, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 18, 2012, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from severe storms, flooding, and landslides during the period of March 3–11, 2012, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Mark H. Armstrong, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Hawaii have been designated as adversely affected by this major disaster:

Kauai County for Public Assistance.

All counties within the State of Hawaii are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–15457 Filed 6–22–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The National Advisory Council will meet on July 12, 2012, in Arlington, VA. The meeting will be open to the public.

DATES: The National Advisory Council will meet Thursday, July 12, 2012, from 8:30 a.m. EST to 5:30 p.m. EST. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at Crystal Marriott Gateway, 1700 Jefferson Davis Highway, Arlington, VA 22202.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Office of the National Advisory Council as soon as possible. See contact information under **FOR FURTHER INFORMATION CONTACT** section below.

To facilitate public participation, members of the public are invited to comment on the issues to be considered by the committee, as listed in the **SUPPLEMENTARY INFORMATION** section below. Written comments or requests to make oral presentations must be submitted in writing no later than July 2, 2012 and must be identified by Docket ID FEMA–2007–0008 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 840, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID FEMA–2007–0008 for this action. Comments received will be posted without alteration at http://www.regulations.gov, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Advisory Council, go to *http://www.regulations.gov.*

A public comment period will be held during the meeting on July 12, 2012 from 4:00 p.m. EST to 4:30 p.m. EST, and speakers are requested to register in advance, be present and seated by 1:50 p.m. EST, and limit their comments to 3 minutes. With 3 minutes per speaker, the public comment period is limited to no more than 10 speakers. Please note that the public comment period may start and end before the time indicated, if the committee has finished its business. Contact the Office of the National Advisory Council, to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Alexandra Woodruff, Alternate Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency (Room 832), 500 C Street SW., Washington, DC 20472–3100, telephone (202) 646–3746, fax (540) 504–2331, and email *FEMA–NAC@fema.dhs.gov.* The National Advisory Council Web site is located at: *http://www.fema.gov/about/nac/.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). The National Advisory Council (NAC) advises the Administrator of the Federal Emergency Management Agency (FEMA) on all aspects of emergency management. The NAC incorporates State, local, and Tribal governments, and private sector partners' input in the development and revision of FEMA policies and strategies. FEMA's Office of the NAC serves as the focal point for all NAC coordination.

Agenda

The NAC will meet for the purpose of reviewing the progress and/or potential recommendations of its four subcommittees: Preparedness and Protection, Response and Recovery, Public Engagement and Mission Support, and Federal Insurance and Mitigation.

The NAC will discuss the National Frameworks as outlined in Presidential Policy Directive 8 (PPD–8) on National Preparedness, the Public Assistance (PA) Bottom-Up Review, Emergency Management Performance Grant (EMPG) Program, Whole Community within Strategic Foresight Initiative (SFI), Youth Preparedness Strategic Framework, and FEMA Workforce Transformation. A FEMA Program Office will brief the NAC on Emerging Topics in Emergency Management during lunch, scheduled for 12:30 p.m. to 1:45 p.m. EST, additionally; new members will be sworn-in.

PPD–8, signed on March 30, 2011, directs the development of a national preparedness goal that identifies the core capabilities necessary for preparedness and a national preparedness system to guide activities that will enable the Nation to achieve the goal. PPD–8 replaces Homeland Security Presidential Directive 8 (HSPD–8) and Annex 1. More information on PPD–8, the Frameworks, and the National Preparedness Goal, may be found at *http://www.fema.gov/prepared/ppd8.shtm.*

The PA Grant Program provides assistance to State, Tribal and local governments, and certain types of Private Nonprofit organizations so that communities can quickly respond to and recover from major disasters or emergencies declared by the President. More information can be found at *http://www.fema.gov/government/grant/pa/index.shtm.*

EMPG provides funding to assist State and local governments to sustain and enhance all-hazards emergency management capabilities. More information on EMPG may be found at *http://www.fema.gov/emergency/empg/empg.shtm.*

SFI promotes broader and longer term thinking, how the world is changing and the effects on the emergency management community. Thinking more broadly and over a longer timeframe will help us understand these changes and their potential impacts. More information on SFI can be found at *http://www.fema.gov/about/programs/oppa/strategic_foresight_initiative.shtm.*

Dated: June 19, 2012.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–15413 Filed 6–22–12; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5607–N–22]

Notice of Proposed Information Collection: Comment Request; Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market)

AGENCY: Office of Affordable Housing Preservation, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: August 24, 2012.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reporting Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Patricia P. Casey, Debt Restructuring Specialist, Office of Affordable Housing Preservation, 451 7th Street SW., Suite 6230, Washington DC 20410; email *Patricia.P.Casey@hud.gov;* telephone (202) 245–4191 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market).

OMB Control Number, if applicable: 2502–0533.

Description of the need for the information and proposed use: The Mark to Market Program is authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997 as extended by the Market to Market Extension Act of 2001. The information collection is required and will be used to determine the eligibility of FHA-insured multifamily properties for participation in the Mark to Market program and the terms on which such participation should occur as well as to process eligible properties from acceptance into the program through closing of the mortgage restructure in accordance with program guidelines. The result of participation in the program is the refinancing and restructure of the property's FHA-insured mortgage and, generally the reduction of Section 8 rent payments and establishment of adequately funded accounts to fund required repair and rehabilitation of the property.

Agency form numbers, if applicable: Operating Procedures Guide (OPG) Forms: Accommodation Agreement—Debt Assgn—TPA Post Restr (Form/Apdx C), Accommodation Agreement—Debt Forgiveness—TPA Post Restr (Form/Apdx C), Agreement of Assignment of Debt to QNP (Form/Apdx C), Allonge—Debt Assignment From QNP (Form/Apdx C), Allonge—Debt Assignment to QNP (Form/Apdx C), Assignment of Debt from QNP (Form/Apdx C), Assumption & Modification of Use Agmt (Assignment) (Form/Apdx C), Assumption and Modification of Use Agreement—Forgiveness (Form/Apdx C), OPG 11.1, OPG 3.1, OPG 3.2, OPG 3.3, OPG 3.4, OPG 4.10, OPG 4.11, OPG 4.12, OPG 4.2, OPG 4.3, OPG 4.4, OPG 4.7, OPG 4.8, OPG 5.4, OPG 5.5, OPG 7.11, OPG 7.12, OPG 7.13, OPG 7.14, OPG 7.21, OPG 7.22, OPG 7.23, OPG 7.25, OPG 7.4, OPG 7.8.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of annual burden hours is 1,331.5, the number of responses is 853, the frequency of response is 1, and the burden hour per response on average is 1.5.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 20, 2012.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2012–15455 Filed 6–22–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2012–N091; FXES11150200000F4–123–FF02ENEH00]

Draft Candidate Conservation Agreement With Assurances and Draft Environmental Assessment; Lesser Prairie Chicken, Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: The Oklahoma Department of Wildlife Conservation (ODWC) (Applicant) has applied for an enhancement of survival permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit application includes a draft Candidate Conservation Agreement with Assurances (CCAA) between the U.S. Fish and Wildlife Service (Service) and ODWC for the lesser prairie-chicken (LEPC) in 10 Oklahoma counties. If the LEPC becomes listed in the future, the Enhancement of Survival permit will become effective, authorizing incidental take of LEPCs resulting from ongoing, otherwise lawful activities on enrolled lands. The draft CCAA and the draft

Environmental Assessment are available for public review, and we seek public comment on the potential issuance of the above permits.

DATES: To ensure consideration, please send your written comments by August 24, 2012.

ADDRESSES: Persons wishing to review the application, the draft CCAA, the draft EA, or other related documents may obtain copies by written or telephone request to Field Supervisor, Oklahoma Ecological Services Field Office, 918–581–7458 (U.S. mail address below). Electronic copies of these documents are available for review on the Service Lesser Prairie Chicken Web site: *http://www.fws.gov/southwest/es/LPC.html.* The application and related documents will be available for public inspection, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the Oklahoma Ecological Services Field Office at the address below.

Comments concerning the application, the draft CCAA, the draft EA, or other related documents should be submitted in writing, by one of the following methods:

Email: lesserprairiechicken@fws.gov.

U.S. mail: Field Supervisor, Oklahoma Ecological Services Field Office, U.S. Fish and Wildlife Service, 9014 E. 21st St., Tulsa, OK 74129.

Please refer to Permit number TE72923A–0 when submitting comments. Please specify if comments are in reference to the draft CCAA, draft EA, or both.

FOR FURTHER INFORMATION CONTACT: Dixie Porter at the U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office (address above).

SUPPLEMENTARY INFORMATION: With the assistance of the Service, the Applicant proposes to implement conservation measures for the LEPC by removing threats to the survival of these species and protecting their habitat. The proposed CCAA would be in effect for 25 years in Alfalfa, Beaver, Beckham, Cimarron, Custer, Dewey, Ellis, Harper, Roger Mills, Texas, Washita, Woods, and Woodward counties, Oklahoma. This area constitutes the CCAA's Planning Area, with Covered Areas being eligible non-federal lands within the Planning Area that provide suitable habitat for LEPC, or have the potential to provide suitable LEPC habitat with the implementation of conservation management practices. The CCAA is in addition to a larger conservation effort for the LEPC across its range within Texas, Oklahoma, Colorado, Kansas, and New Mexico. The CCAA has been developed in support of a section 10(a)(1)(A) enhancement of survival permit.

If approved, participants who are fully implementing the CCAA provisions of the enhancement of survival permit will be provided assurances that, should the LEPC be listed, the Service will not require them to provide additional land, water, or financial resources, nor will there be any further restrictions to their land, water, or financial resources than they committed to under the CCAA provisions (50 CFR 17.22(d) and 17.32(d)). Furthermore, if the LEPC is listed, participants would be provided incidental take authorization under the enhancement of survival permit, through certificates of inclusion, for the level of incidental take on the enrolled lands consistent with the activities under the CCAA provisions.

Background

The LEPC currently occurs in five states: Colorado, Kansas, New Mexico, Oklahoma, and Texas. The species inhabits rangelands dominated primarily by shinnery oak-bluestem and sand sagebrush-bluestem vegetation types. Major factors affecting the status of the LEPC are habitat fragmentation, overutilization by domestic livestock, oil and gas development, wind energy development, loss of native rangelands to cropland conversion, herbicide use, fire suppression, and drought. In 1998, the Service determined that listing of the LEPC was warranted but precluded because of other higher priority species. The December 2008, Candidate Notice of Review elevated the listing priority of the LEPC from an ''8'' to a ''2'' because the overall magnitude of threats to the LEPC were increasing and occurring throughout almost all of the currently occupied range.

The CCAA was initiated in order to facilitate conservation and restoration of the LEPC on private and State trust lands in Oklahoma. Expected conservation benefits for LEPC from implementation of the conservation measures in this CCAA will be recognized through improved population performance. Specifically, this will entail expected increases in adult and juvenile survivorship, nest success, and recruitment rates.

Furthermore, LEPC conservation will be enhanced by providing ESA regulatory assurances for participating property owners. There will be a measure of security for participating landowners in the knowledge that they will not incur additional land use restrictions if the species is listed under the ESA. The CCAA will provide benefits to LEPC by providing technical assistance to landowners in managing lesser prairie-chicken habitat. Through participation landowners may be assisted with securing potential state and federal funding for applying best management practices and conservation measures on their property to protect and enhance LEPC habitat, which should sustain and improve population performance (i.e., increased population numbers, increased survival, reduced mortality, expansion of occupied range). The Applicant has committed to guiding the implementation of the CCAA and requests issuance of the enhancement of survival permit in order to address the take prohibitions of section 9 of the Act should the species become listed in the future.

The draft CCAA and application for the enhancement of survival permit are not eligible for categorical exclusion under the National Environmental Policy Act (NEPA) of 1969. A draft Environmental Assessment has been prepared to further analyze the direct, indirect, and cumulative impacts of the CCAA on the quality of the human environment and other natural resources.

Public Availability of Comments

All comments we receive become part of the public record. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations (50 CFR 17.22 and 17.32), and the National Environmental Policy Act (42 U.S.C. 4371 et seq.) and its implementing regulations (40 CFR 1506.6).

Benjamin N. Tuggle,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 2012–15385 Filed 6–22–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000–L19100000–Bk0000]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM–Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management-Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The survey was requested by the Bureau of Land Management-Eastern States.

The lands surveyed are:

Louisiana Meridian, Louisiana

T. 8 N., R 4 E.

The plat of survey represents survey of Parcel 9 land held in trust for the Jena Band of Choctaw Indians in Section 7, in Township 8 North, Range 4 East, of the Louisiana Meridian, in the State of Louisiana, and was accepted May 24, 2012.

We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against the survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: June 14, 2012.

John Sroufe,

Acting Chief Cadastral Surveyor.

[FR Doc. 2012–15384 Filed 6–22–12; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0091]

Agency Information Collection Activities: Proposed Collection; Comments Requested: National Response Team Customer Satisfaction Survey

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This notice requests comments from the public and affected agencies concerning the proposed information collection. Comments are encouraged and will be accepted for ''sixty days'' until August 24, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mary Lynn Wolfe, *Mary.Wolfe@atf.gov,* Arson and Explosives Programs Division, Fax # (202) 648–9660.

Written comments and suggestions from the public and affected agencies concerning the proposed information collection are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Reinstatement with change of a previously approved collection.

(2) *Title of the Form/Collection:* National Response Team Customer Satisfaction Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, Primary:* State, Local or Tribal Government. Other: None.

Need for Collection

The Arson and Explosives Programs Division (AEPD) of the Bureau of Alcohol, Tobacco, Firearms and Explosives distributes a program-specific customer satisfaction survey to more effectively capture customer perception/satisfaction of services. AEPD's strategy is based on a commitment to provide the kind of customer service that will better accomplish ATF's mission.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 20 respondents will complete a 15 minute survey.

(6) An estimate of the total public burden (in hours) associated with the collection: There are an estimated 5 annual total burden hours associated with this collection.

If additional information is required, contact Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, Room 2E–508, 145 N Street NE., Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–15400 Filed 6–22–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0020]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Firearms Transaction Record, Part I, Over-the-Counter

ACTION: 60-Day Notice of Information Collection.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 24, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erica Reid, Program Analyst, Firearms Industry Programs Branch at *FederalRegisterNotice ATFF4473@atf.gov*.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Extension without change of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Transaction Record, Part 1, Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.9) Part 1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Business or other for-profit.

Need for Collection

The form is used to determine the eligibility, under the Gun Control Act (GCA), of a person to receive a firearm from a Federal firearms licensee and to establish the identity of the buyer/transferee. It is also used in law enforcement investigations/inspections to trace firearms and confirm that licensees are complying with their recordkeeping obligations under the GCA.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 14,409,616 respondents will respond to the collection each year and that the total amount of time to read the instructions and complete the form on average is 30 minutes.

(6) An estimate of the total public burden (in hours) associated with the collection: ATF estimates 7,204,808 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E–508, 145 N Street NE., Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–15401 Filed 6–22–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment: National Medical Support Notice—Part B, Etc.

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

Overview Information

Proposed Extension of Information Collection Requests Submitted for Public Comment: National Medical Support Notice—Part B; Defined Benefit Plan Annual Funding Notice; Prohibited Transaction Class Exemptions for Multiple Employer Plans and Multiple Employer Apprenticeship Plans, PTE 76–1, PTE 77–10, PTE 78–6; Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction; Notice of Special Enrollment; Notice of Pre-Existing Condition Exclusion; Establishing Prior Creditable Coverage.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at reginfo.gov (*http://www.reginfo.gov/public/do/PRAMain*).

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before August 24, 2012.

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transactions described below. With the exception of the National Medical Support Notice—Part B, the Department is not proposing any changes to the existing ICRs at this time. The minor changes the Department is proposing for the National Medical Support Notice—Part B are discussed under the Description of that ICR, below. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: National Medical Support Notice—Part B.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0113.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Respondents: 433,000.

Responses: 10,754,484.

Estimated Total Burden Hours: 896,207.

Estimated Total Burden Cost (Operating and Maintenance): $5,807,421.

Description: Section 609(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), requires each group health plan, as defined in ERISA section 607(1), to provide benefits in accordance with the applicable requirements of any ''qualified medical child support order'' (QMCSO). A QMCSO is, generally, an order issued by a state court or other competent state authority that requires a group health plan to provide group health coverage to a child or children of an employee eligible for coverage under the plan. In accordance with Congressional directives contained in the Child Support Performance and Incentive Act of 1998 (CSPIA), EBSA and the Federal Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS) cooperated in the development of regulations to create a National Medical Support Notice (NMSN or Notice). The Notice simplifies the issuance and processing of qualified medical child support orders issued by state child support enforcement agencies, provides for standardized communication between state agencies, employers, and plan administrators, and creates a uniform and streamlined process for enforcement of medical child support obligations ordered by state child support enforcement agencies. The NMSN comprises two parts: Part A was promulgated by HHS and pertains to state child support enforcement agencies and employers; Part B was promulgated by the Department and pertains to plan administrators pursuant to ERISA. This solicitation of public comment relates only to Part B of the NMSN, which was promulgated by the Department. In connection with promulgation of Part B of the NMSN, the Department submitted an ICR to the Office of Management and Budget (OMB) for review, and OMB approved the information collections contained in Part B under OMB control number 1210–0113. OMB's approval of this ICR is scheduled to expire on October 31, 2012. HHS and DOL plan to revise the NMSN Parts A and B by October 2012, with minor changes. The revision will synchronize the expiration dates and make conforming changes to page 1 of the NMSN Part B to match the changes made to Part A by HHS in 2011.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Defined Benefit Plan Annual Funding Notice.

Type of Review: Extension of a currently approved information collection.

OMB Number: 1210–0126.

Affected Public: Individuals or households; business or other for-profit institutions; not-for-profit institutions.

Respondents: 30,458.

Responses: 49,171,095.

Estimated Total Burden Hours: 1,093,173.

Estimated Total Burden Cost (Operating and Maintenance): $21,630,572.

Description: Section 101(f) of the Employee Retirement Income Security Act of 1974 (ERISA) sets forth requirements applicable to furnishing annual funding notices. Before the enactment of the Pension Protection Act of 2006 (PPA), section 101(f) applied only to multiemployer defined benefit plans. The Department issued a final implementing regulation under this provision on January 11, 2006 (71 FR 1904), which is codified at 29 CFR 2520.101–4.

Section 501(a) of the PPA amended section 101(f) of ERISA and made significant changes to the annual funding notice requirements. These amendments require administrators of all defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to provide an annual funding notice to the Pension Benefit Guaranty Corporation (PBGC), to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. An annual funding notice must include, among other things, the plan's funding percentage, a statement of the value of the plan's assets and liabilities and a description of how the plan's assets are invested as of specific dates, and a description of the benefits under the plan that are eligible to be guaranteed by the PBGC.

On February 10, 2009, the Department issued Field Assistance Bulletin (FAB) 2009–1 to provide interim guidance under section 101(f) of ERISA in order to assist plan administrators in discharging their obligations under the new annual funding notice requirements, including model notices plan administrators may use to satisfy the annual funding notice content requirements. The FAB provides that pending further guidance, the Department will, as a matter of enforcement policy, treat a plan administrator as satisfying the requirements of section 101(f), if the administrator complies with the guidance contained in the FAB and has acted in accordance with a good faith, reasonable interpretation of those requirements with respect to matters not specifically addressed in the FAB. The ICR, as revised by the FAB, expires on October 31, 2012. The Department issued proposed annual funding notice regulations on November 18, 2010 (75 FR 70625). Much of the guidance in FAB 2009–01 has been incorporated into the proposed regulations. The guidance contained in the FAB remains in effect until the Department adopts final regulations under section 101(f) of ERISA (or if the Department were to publish any other guidance under section 101(f) other than final regulations).

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemptions for Multiple Employer Plans and Multiple Employer Apprenticeship Plans, PTE 76–1, PTE 77–10, PTE 78–6.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0058.

Affected Public: Business or other for-profit; not-for-profit institutions.

Respondents: 4,230.

Responses: 4,230.

Estimated Total Burden Hours: 1,052.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: This ICR covers information collections contained in three related prohibited transaction class exemptions: PTE 76–1, PTE 77–10, and PTE 78–6. All three of these exemptions cover transactions that were recognized by the Department as being well-established, reasonable and customary transactions in which collectively bargained multiple employer plans (principally, multiemployer plans, but also including other collectively bargained multiple employer plans) frequently engage in order to carry out their purposes.

PTE 76–1 provides relief, under specified conditions, for three types of transactions: (1) Part A of PTE 76–1 permits collectively bargained multiple employer plans to take several types of actions regarding delinquent or uncollectible employer contributions; (2) Part B of PTE 76–1 permits collectively bargained multiple employer plans, under specified conditions, to make construction loans to participating employers; and (3) Part C of PTE 76–1 permits collectively bargained multiple employer plans to share office space and administrative services, and the costs associated with such office space and services, with parties in interest. PTE 77–10 complements Part C of PTE 76–1 by providing relief from the prohibitions of subsection 406(b)(2) of ERISA with respect to collectively bargained multiple employer plans sharing office space and administrative services with parties in interest if specific conditions are met. PTE 78–6 provides an exemption to collectively bargained multiple employer apprenticeship plans for the purchase or leasing of personal property from a contributing employer (or its wholly owned subsidiary) and for the leasing of real property (other than office space within the contemplation of section 408(b)(2) of ERISA) from a contributing employer (or its wholly owned subsidiary) or an employee organization any of whose members' work results in contributions being made to the plan.

Each of these PTEs requires, as part of its conditions, either written agreements, recordkeeping, or both. The Department has combined the information collection provisions of the three PTEs into one information collection request (ICR) because it believes that the public benefits from having the opportunity to collectively review these closely related exemptions and their similar information collections. The Department previously submitted an ICR to the Office of Management and Budget (OMB) for approval of the information collections in PTEs 76–1, 77–10, and 78–6 and received OMB approval under the OMB Control No. 1210–0058. The current approval is scheduled to expire on November 30, 2012.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0135.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Respondents: 15,400.

Responses: 15,400.

Estimated Total Burden Hours: 14,350.

Estimated Total Burden Cost (Operating and Maintenance): $8,000.

Description: The continuation coverage provisions of section 601 through 608 of ERISA (and parallel provisions of the Internal Revenue Code (Code)) generally require group health plans to offer qualified beneficiaries' the opportunity to elect continuation coverage following certain events that would otherwise result in the loss of coverage. Continuation coverage is a temporary extension of the qualified beneficiary's previous group health coverage. The right to elect continuation coverage allows individuals to maintain group health coverage under adverse circumstances and to bridge gaps in health coverage that otherwise could limit their access to health care.

COBRA provides the Secretary of Labor (the Secretary) with authority under section 608 of ERISA to carry out the continuation coverage provisions. The Conference Report that accompanied COBRA divided interpretive authority over the COBRA provisions between the Secretary and the Secretary of the Treasury (the Treasury) by providing that the Secretary has the authority to issue regulations implementing the notice and disclosure requirements of COBRA, while the Treasury is authorized to issue regulations defining the required continuation coverage.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) of 2009 (Pub. L. 111–5). Section 3001(a)(5) of ARRA provides that if individuals request treatment as an assistance eligible individual and are denied such treatment because of their ineligibility for COBRA continuation coverage, the Secretary of Labor must provide for expedited review of the denial upon application to the Secretary in the form and manner the Secretary provides. The Secretary of Labor is required to act in consultation with the Secretary of the Treasury and must make a determination within 15 business days after receipt of an individual's application for review.

The Application is the form that will be used by individuals to file their expedited review appeals with EBSA. All of the information requested on the Application must be completed, and an Application may be denied if sufficient information is not provided. In certain situations, EBSA will have to contact plan administrators for additional information regarding an applicant's appeal of a denial of premium reduction. The Letter will be used for this purpose in cases where the Department has otherwise been unable to contact a plan administrator.

On November 9, 2009, the Office of Management and Budget (OMB) approved the Application and the Letter under OMB Control Number 1210–0135. The approval is scheduled to expire on November 30, 2012.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Notice of Special Enrollment.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0101.

Affected Public: Business or other for-profit; not-for-profit institutions.

Respondents: 2,757,800.

Responses: 10,847,611.

Estimated Total Burden Hours: 0.

Estimated Total Burden Cost (Operating and Maintenance): $94,917.

Description: Subsection (c) of 29 CFR 2590.701–6 requires group health plans to provide a notice describing the plan's special enrollment rules to each employee who is offered an initial opportunity to enroll in the group health plan. The special enrollment rules described in the notice of special enrollment generally provide enrollment rights to employees and their dependents in specified circumstances occurring after the employee or dependent initially declines to enroll in the plan. EBSA previously submitted an ICR concerning the notice of special enrollment to the Office of Management and Budget (OMB) for review under the PRA and received approval under OMB Control No. 1210–0101. The ICR approval is currently scheduled to expire on December 31, 2012.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Notice of Pre-Existing Condition Exclusion.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0102.

Affected Public: Business or other for-profit; not-for-profit institutions.

Respondents: 827,330.

Responses: 4,683,541.

Estimated Total Burden Hours: 6,661.

Estimated Total Burden Cost (Operating and Maintenance): $1,319,664.

Description: Regulation section 2590.701–3 requires group health plans imposing a pre-existing condition exclusion, and health insurance issuers offering group health insurance subject to a preexisting condition exclusion, to provide all participants under the plan a written general notice of the pre-existing condition and also to provide any affected individual a specific written notice describing the length of preexisting condition exclusion applicable to that individual under the plan after the plan or issuer has made a determination, for that individual, of creditable coverage. EBSA previously submitted an ICR with respect to these pre-existing condition exclusion notices to the Office of Management and Budget (OMB) for review under the PRA and received approval under OMB Control No. 1210–0102. The ICR approval is currently scheduled to expire on December 31, 2012.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Establishing Prior Creditable Coverage.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0103.

Affected Public: Business or other for-profit; not-for-profit institutions.

Respondents: 2,757,768.

Responses: 19,593,756.

Estimated Total Burden Hours: 88,066.

Estimated Total Burden Cost (Operating and Maintenance): $13,830,615.

Description: Subsection (a) of 29 CFR 2590.701–5 requires a group health plan and each health insurance issuer offering group health insurance coverage under a group health plan to furnish certificates of creditable coverage to specified individuals under specified circumstances. EBSA previously submitted an ICR concerning the requirement to provide certificates of creditable coverage to the Office of Management and Budget (OMB) for review under the PRA and received approval under OMB Control No. 1210–0103. The ICR approval is currently scheduled to expire on December 31, 2012.

II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

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

Dated: June 18, 2012.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2012–15392 Filed 6–22–12; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the Workforce Investment Act (WIA) Adult and Dislocated Worker Programs Gold Standard Evaluation (WIA Evaluation); New Collection

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that required 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.

The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by the Office of Management and Budget (OMB) under the PRA and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (see 5 CFR 1320.5(a) and 1320.6).

This data collection request consists of follow-up surveys for a sample of WIA customers participating in the WIA Evaluation and data for use in estimating the costs of WIA services and training received by sample group members. In addition, it includes data for a supplemental study to learn about services to veterans, the services they receive, and their outcomes. Since the WIA Evaluation is excluding veterans from the net-impact study, this supplemental study provides the opportunity to analyze veterans' experiences in the 28 WIA Evaluation sites.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 24, 2012.

ADDRESSES: Send comments to Eileen Pederson, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Ave. NW., Room N–5641, Washington, DC 20210. Telephone number: (202) 693–3647 (this is not a toll-free number). Email address: *pederson.eileen@dol.gov.* Fax number: (202) 693–2766 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Passage of WIA (Pub. L. 105–220) led to a major redesign of the country's workforce system. WIA programs serve more than 6 million people annually at a cost of over $3 billion (U.S. Department of Labor, Fiscal Year 2012 Budget in Brief). Among its goals, WIA aims to bring formerly fragmented

public and private employment services together in a single location within each community, make them accessible to a wider population than did prior employment services and training, empower customers with greater ability to choose from services and training options, and provide localities greater local flexibility in using funds and greater accountability for customers' employment outcomes.

Congress mandated in Section 172 of the WIA legislation that the Secretary of Labor conduct at least one multi-site control group evaluation. Accordingly, the Department is undertaking the WIA Evaluation to provide rigorous, nationally representative estimates of the net-impacts of WIA intensive services and training. Intensive services involve substantial staff assistance and include assessments, counseling, and job placement. Training includes education and occupational skills—building. This evaluation will offer policymakers, program administrators, and service providers information about the relative effectiveness of services and training, how the effectiveness varies by target population, and how the services and training are provided. The study will also produce estimates of the benefits and costs of WIA intensive services and training. The Department contracted with Mathematica Policy Research and its subcontractors—Social Policy Research Associates, MDRC, and the Corporation for a Skilled Workforce—to conduct this evaluation.

The WIA Evaluation was launched in November 2011 when seven local Workforce Investment Areas (LWIAs) began customer intake. By August 2012, all 28 of the evaluation's LWIAs will be enrolling customers into the evaluation. For most sites, the sample intake period will last between 12 and 18 months. The length of the intake period was determined in consultation with the local Workforce Investment Board and/or LWIA administrators WIA customers who are eligible for intensive services will be randomly assigned to one of three groups: (1) The full-WIA group—adults and dislocated workers in this group can receive any WIA service for which they are eligible; (2) the core-and-intensive group—adults and dislocated workers in this group can receive any WIA intensive services for which they are eligible, but not training; and (3) the core-only group—adults and dislocated workers in this group can receive only core services and no WIA intensive services or training. Customers who do not consent to participate in the study will be allowed to receive core services only for the duration of the study intake period in the respective LWIA.

Based on estimates using recent data, approximately 68,000 WIA adult and dislocated worker customers will be randomly assigned to the evaluation—about 64,000 customers to the full-WIA group and 2,000 customers to each of the restricted-service groups. All 4,000 members of the restricted-service groups and a random sample of 2,000 customers in the full-WIA group will be asked to complete two follow-up surveys.

The WIA Evaluation will address the following research questions:

1. Does access to WIA intensive services, alone or in conjunction with WIA-funded training, lead adults and dislocated workers to achieve better educational, employment, earnings, and self-sufficiency outcomes than they would achieve in the absence of access to those services?

2. Does the effectiveness of WIA vary by population subgroup? Is there variation by sex, age, race/ethnicity, unemployment insurance receipt, prior education level, previous employment history, adult and dislocated worker status, and veteran and disability status?

3. How does the implementation of WIA vary by LWIA? Does the effectiveness of WIA vary by how it is implemented? To what extent do implementation differences explain variations in WIA's effectiveness?

4. Do the benefits from WIA intensive services and training exceed program costs? Do the benefits of intensive services exceed their costs? Do the benefits of training exceed its costs? Do the benefits exceed the costs for adults? Do the benefits exceed the costs for dislocated workers?

An initial package, approved in September 2011 (OMB No. 1205–0482), received clearance for the customer intake process which included: a form to check the study eligibility of the customer; a customer study consent form (indicating the customer's knowledge of the evaluation and willingness to participate); the collection of baseline data through a study registration form; and a contact information form. The package also included site visit guides for the collection of qualitative information on WIA program processes and services.

Subsequent to receiving OMB approval for qualitative data collection during site visits to the 28 LWIAs participating in the study and because veterans are excluded from the net-impact study, ETA, in consultation with the Department's Veterans' Employment and Training Service and OMB, decided to collect additional qualitative and quantitative data in order to analyze veterans' experiences in the 28 WIA Evaluation sites.

This package requests clearance for the three remaining data collection efforts for the evaluation:

- Two follow-up surveys to be conducted at 15 and 30 months after random assignment, with a sample of WIA customers included in the evaluation; and
- A cost data collection package consisting of three forms—a program costs questionnaire, a staff activity log, and a resource room sign-in sheet—for use in estimating the costs of WIA services and training received by sample members.
- The Veterans' Supplemental Study, consisting of qualitative and quantitative data collected on veterans served at the 28 LWIAs participating in the WIA Evaluation. The study will add questions and several activities to the WIA Evaluation's second round of implementation study site visits to the 28 LWIAs. The supplemental study's qualitative component will address seven additional research questions:

1. How do veterans learn about available services in the One-Stop Career Centers?

2. What are the procedures for orienting and enrolling veterans into services, including WIA and Wagner-Peyser, and how do they differ from procedures for nonveteran customers?

3. How do One-Stop Career Center staff members operationalize veterans' priority of service for WIA and Wagner-Peyser services?

4. How do the Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVERs) coordinate to provide services to veterans, and how do these staff members interact with other One-Stop Career Center staff?

5. What services are provided to veterans through the One-Stop Career Center?

6. What issues do staff face in providing services to veterans, and how do they differ from nonveteran customers?

7. What innovative or promising practices have states or local areas implemented to provide employment and training services to veterans?

In addition to the quantitative data collection for the Veterans' Supplemental Study, two sets of administrative data that states report to the Department will be analyzed: The WIA Standardized Record Data (WIASRD) and Wagner-Peyser data. Because the data is already reported to the Department, there is no additional burden associated with this data collection.

Follow-up surveys. The follow-up surveys will collect data on customers' receipt of services and customer outcomes on attainment of education credentials, labor market success, and family self-sufficiency. The surveys will be administered by telephone to 6,000 study participants—all 2,000 members of each of the core-only and core-and-intensive groups and 2,000 randomly selected study participants in the full-WIA group. These data will be used to estimate the impacts of WIA intensive services and training. The first and second follow-up surveys are similar in the questions they will ask; they differ only in the reference period. The first survey asks about months 1–15 following random assignment and the second survey asks about the next 15 months (months 16–30). If a sample member does not respond to the first survey, the second survey will ask about all 30 months since random assignment.

Cost data collection package. The benefit-cost analysis of intensive services and training requires data on the costs of the services received by sample members. Data on the quantity of services received will be obtained primarily from the follow-up surveys. Data on the cost of each service will be obtained from the sites by requesting that LWIA staff complete a program cost questionnaire, a front-line staff activity log, and administer resource room sign-in sheets.

- *Program cost questionnaire.* LWIA administrative staff will complete these detailed questionnaires on the salaries and fringe benefits of all staff in the local area whose salary is paid at least in part by WIA. This includes administrative/executive staff, managers and supervisors, front-line staff, and administrative assistants.
- *Front-line staff activity log.* The front-line staff activity log will collect information on what activities counselors engage in on a typical day. Counselors will use a template to record their activities using a set of pre-specified codes for each activity for one week. This information will be used to estimate the average preparation and follow-up time associated with one-on-one meetings with customers, time spent in resource rooms, and time spent in workshops and peer support groups.
- *Resource room sign-in sheets.* To calculate the average cost per visit to the resource room, the study will collect information on the number of people who use the resource room. For One-Stop Career Centers that already collect this information, the study will request it from all centers in the local area. However, for centers that do not already collect this information, or do not collect it in a way that can be used by the study, the study will provide a resource room sign-in sheet for each of the LWIA's One-Stop Career Centers.

Veterans' Supplemental Study. During site visits to all 28 sites participating in the WIA Evaluation, interviews about services to veterans will be conducted with One-Stop Career Center staff working with veteran customers. These staff members include DVOP specialists, LVERs, and WIA and Employment Service (ES) staff. In addition, the study team will interview the state veterans coordinators in the 19 states represented in the WIA Evaluation.

Eight of the 28 sites will be purposively selected for additional data collection activities to learn about the services veterans receive through the public workforce investment system and their experiences. The eight sites will be selected based on two factors: the number of veterans served by the LWIA; and evidence of particularly promising or innovative practices. In these sites, a focus group of 6-to-86 veterans who have received services at the One-Stop Career Center in the past 6 months will be convened so that site visitors may speak directly with veterans to learn about the services they received and the programs in which they participated, and to obtain more detail about their experiences and their impressions of those experiences.

Case files of three of the focus group participants at each site will be selected for review. The review will illustrate how veteran customers receive services through the One-Stop Career Center system. For both these activities, a diverse group of veterans representing a range of backgrounds and experiences will be selected. They will be a mix of male and female veterans, pre- and post-9/11 veterans, and veterans with and without service-connected disabilities.

Second, the Veterans' Supplemental Study will analyze LWIA administrative data reported by states as part of WIASRD and Wagner-Peyser data system. For the 28 LWIAs, this quantitative component of the study will explore the characteristics, services received, and outcomes of veterans who receive services through the public workforce system.

II. Desired Focus of Comments

Currently, the Department is soliciting comments concerning the above data collections. Comments are requested which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; and
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the information collection on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

At this time, the Department is requesting clearance for the WIA Evaluation's 15- and 30-month follow-up surveys, the collection of cost data, and the collection of information on veterans' services through staff interviews and focus groups of veterans served by the workforce investment system.

Type of Review: New collection.

Title of Collection: WIA Adult and Dislocated Worker Programs Gold Standard Evaluation.

OMB Number: 1205–0NEW.

Affected Public: Public workforce system administrators and staff, low-income, disadvantaged adults and dislocated workers, and veterans who have received services from One-Stop Career Centers.

Cite/Reference/Form/etc: Workforce Investment Act of 1998, Section 172 (Pub. L. 105–220).

ANNUAL BURDEN ESTIMATES FOR WIA EVALUATION FOLLOW-UP SURVEYS, COST DATA COLLECTION, AND VETERANS SUPPLEMENTAL STUDY

Activity	Number of respondents [1]	Responses per respondent	Average time per response	Total respondent burden (hours) [2]
Follow-Up Surveys				
15-Month Follow-Up Survey	2,460	1	40 minutes	1,640
30-Month Follow-Up Survey	2,460	1	30 minutes	1,230
Cost Data Collection				
Program Costs Questionnaire	28	1	720 minutes (12 hours)	336
Front-Line Staff Activity Log	336	1	75 minutes (1.25 hours)	420
Resource Room Sign-in Sheets	10,000	1	0.5 minutes	83
Veterans Supplemental Study				
WIA/ES Staff Interviews	168	1	20 minutes	56
DVOP/LVER Staff Interviews	56	1	60 minutes	56
State Veteran Coordinator Interviews	19	1	60 minutes	19
Staff Preparation for Focus Groups	8	1	60 minutes	8
Focus Groups—Veterans	56	1	60 minutes	56
Annual Total Burden				3,896

[1] Attempts will be made to complete interviews with 6,000 sample members in each wave of the follow-up surveys (at 15- and 30-months). To achieve the targeted response rate of 82 percent, we expect to complete interviews with 2,460 sample members for each survey each year. Each follow-up survey will be fielded over a 2-year period.

[2] Numbers may not be exact due to rounding.

Follow-Up Surveys. Each of the two evaluation follow-up surveys will be administered once to each respondent. The surveys were designed to take an average of 40 minutes to complete using computer-assisted telephone interviewing for the 15-month follow-up survey, and 30 minutes for the 30-month follow-up survey. Therefore, the total annual burden to conduct the 15-month follow-up survey is 1,640 hours (= 4,920 interviews ÷ 2 years × ⅔ hours per interview), and 1,230 hours to conduct the 30-month follow-up survey (= 4,920 interviews ÷ 2 years × 0.5 hours per interview).

Cost Data Collection. Each of the program cost questionnaires will be administered once to each of the 28 sites participating in the WIA evaluation. The total annual burden for collection of cost data is 336 hours (= 28 sites × 12 hours per questionnaire). The front-line activity logs will be completed by 12 front-line staff in each of the 28 sites participating in the WIA evaluation. The total annual burden for completing the front-line activity logs will be 420 hours (= 12 staff × 28 sites × 75 minutes ÷ 60 minutes). The resource room sign-in sheets will be completed by 10,000 individuals accessing services in the 28 sites participating in the WIA Evaluation. Signing into the resource room will take an estimated 30 seconds (.5 minute) per respondent. Thus, the total annual burden for the resource room sign-in sheets will be 83 hours (= 10,000 respondents × 0.5 minutes ÷ 60 minutes).

Veterans' Supplemental Study. The interviews with WIA and ES staff will be conducted once with 6 staff in each of the 28 sites for an expected 20 minutes per interview. Therefore, the total annual burden will be 56 hours (= 6 staff × 28 sites × 20 minutes ÷ 60 minutes). The interviews with DVOP/LVER staff will be conducted once with 2 staff in each of the 28 sites for an expected 60 minutes per interview. The total annual burden will be 56 hours (= 2 staff x 28 sites x 60 minutes ÷ 60 minutes). The interviews with state veteran coordinators will be conducted once with 1 coordinator in each of 19 states with LWIAs participating in the evaluation and are expected to be 60 minutes per interview. The total annual burden will be 19 hours (= 1 staff × 19 states × 60 minutes ÷ 60 minutes). The staff preparation for veteran focus group discussions in 8 LWIAs will last 60 minutes per site. The total annual burden will be 8 hours (= 8 sites × 60 minutes ÷ 60 minutes). The focus groups with an average of 6-to-8 veteran respondents in 8 sites will last an estimated 60 minutes. The total annual burden for veterans focus group discussions will be 56 hours (= 7 focus group discussants × 8 sites × 60 minutes ÷ 60 minutes). The total annual burden estimate for collection in this package is estimated to be 3,896 hours.

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

Signed at Washington, DC, this 19th day of June 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2012–15417 Filed 6–22–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards

codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before July 25, 2012.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2012–081–C.

Petitioner: White Oak Resources, LLC, 121 S. Jackson Street, McLeansboro, Illinois 62859.

Mine: White Oak Mine No. 1, MSHA I.D. No. 11–03203, located in Hamilton County, Illinois.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment)

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electronic testing or diagnostic equipment in or inby the last open crosscut. The petitioner states that:

(1) Nonpermissible electronic testing and diagnostic equipment to be used includes: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current, and power measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Manager.

(2) All other testing and diagnostic equipment used in or inby the last open crosscut will be permissible.

(3) All nonpermissible testing and diagnostic used in or inby the last open crosscut will be examined by a qualified person (as defined in 30 CFR 75.153) prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations results will be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(4) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut.

(5) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(6) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(7) Except for time necessary to troubleshoot under actual mining conditions, coal production in the section will cease. However, coal may remain in or on the equipment to test and diagnose the equipment under ''load.''

(8) Nonpermissible electronic testing and diagnostic equipment will not be used to test equipment when coal dust is in suspension.

(9) All electronic testing and diagnostic equipment will be used in accordance with the safe use procedures recommended by the manufacturer.

(10) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

(11) Any piece of equipment subject to this petition will be inspected by MSHA prior to initially placing it in service underground.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that under the terms and conditions of the petition for modification, the use of nonpermissible electronic testing and diagnostic equipment will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2012–082–C.

Petitioner: White Oak Resources, LLC, 121 S. Jackson Street, McLeansboro, Illinois 62859.

Mine: White Oak Mine No. 1, MSHA I.D. No. 11–03203, located in Hamilton County, Illinois.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electronic testing or diagnostic equipment within 150 feet of longwall faces. The petitioner states that:

(1) Nonpermissible electronic testing and diagnostic equipment to be used includes: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current, and power measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used

if approved in advance by the MSHA District Manager.

(2) All other testing and diagnostic equipment used within 150 feet of longwall faces will be permissible.

(3) All nonpermissible testing and diagnostic equipment used within 150 feet of longwall faces will be examined by a qualified person (as defined in 30 CFR 75.153) prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations results will be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(4) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment within 150 feet of longwall faces.

(5) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet of longwall faces.

(6) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(7) Except for time necessary to troubleshoot under actual mining conditions, coal production in the section will cease. However, coal may remain in or on the equipment to test and diagnose the equipment under ''load.''

(8) Nonpermissible electronic testing and diagnostic equipment will not be used to test equipment when coal dust is in suspension.

(9) All electronic testing and diagnostic equipment will be used in accordance with the safe use procedures recommended by the manufacturer.

(10) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

(11) Any piece of equipment subject to this petition will be inspected by MSHA prior to initially placing it in service underground.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that under the terms and conditions of the petition for modification, the use of nonpermissible electronic testing and diagnostic equipment will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2012–083–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Eagle Mine, MSHA I.D. No. 46–08759, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–084–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340,

401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Eagle Mine, MSHA I.D. No. 46–08759, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–085–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Eagle Mine, MSHA I.D. No. 46–08759, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–086–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Peerless Rachel Mine, MSHA I.D. No. 46–09258, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–087–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Peerless Rachel Mine, MSHA I.D. No. 46–09258, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the

following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–088–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Peerless Rachel Mine, MSHA I.D. No. 46–09258, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining, by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed

revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–089–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Coalburg No. 1 Mine, MSHA I.D. No. 46–08993, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

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(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–090–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Coalburg No. 1 Mine, MSHA I.D. No. 46–08993, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

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(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one

year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–091–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Coalburg No. 1 Mine, MSHA I.D. No. 46–08993, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining, by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

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(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–092–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Coalburg No. 2 Mine, MSHA I.D. No. 46–09231, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps

in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–093–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Coalburg No. 2 Mine, MSHA I.D. No. 46–09231, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the

equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–094–C.

Petitioner: Newtown Energy, Inc., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Coalburg No. 2 Mine, MSHA I.D. No. 46–09231, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–095–C.

Petitioner: Bledsoe Coal Corporation, Route 2008, Box 351A, Big Laurel, Kentucky 40808.

Mine: Mine No. 4, MSHA I.D. No. 15–11065, located in Leslie County, Kentucky.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests a modification of the existing standard for surface areas of underground coal mines to permit the use of refuse material from the BL–1 Preparation Plant to reclaim the face-up area for five portals of Mine No. 4. The portals are located downstream of John Miniard Branch off Greasy Creek. The petitioner states that:

(1) The Mine No. 4 has been abandoned since June 2008, and currently, there is no waterflow from the five portals, although water controls will be constructed so that water could flow from the portals without saturating the fill.

(2) A fireproof barrier of clay or inert material will be constructed 4 feet over the exposed coal seam. Analysis of the material used to construct the fireproof barrier will be provided to verify it as noncombustible.

The petitioner proposes to:

(1) Place coarse refuse over abandoned underground mine openings in the Mine No. 4 coal seam during the reclamation of the portals. There are no steam lines associated with this proposal.

(2) Construct Miniard Branch portals coarse refuse fill over the underground mine openings face up located along the mouth of John Miniard Branch at the confluence of Greasy Creek. Five underground openings along the face up will be covered by coarse refuse. All of the openings are located in the Hazard No. 4 coal seam. (The location of each opening is shown on the Plan View map provided with this petition.) The petitioner further states that:

(1) The Hazard No. 4 coal seam in this area was mined from the early 1980's and closed in 2008.

(2) During the life of the mine, two of the portals fell in and sealed the openings (as shown on the Plan View map). Since this area was used mainly

for an exhausting fan site, the portals were not cleaned back out.

(3) On closure of the mine, two water pipes were inserted into two different openings and the portals were backfilled 25 feet back into the mine and then 4 feet over the portals. Due to the dip of the coal seam, the water in this area drains to another set of portals that have pipes and water drains to allow the water to exit, and no water has come out at this site.

(4) The petitioner proposes to reclaim this site using coarse refuse over the backfilled portals. To contend with the eventuality that water might exit the mine through these portals, the petitioner will construct a durable rock underdrain across the front of the backfill spanning all the portals.

(5) Two pipes inserted back into the mine will tie into the rock underdrain so that any water seeping through the coarse refuse or coming out of the underground mine will travel through this rock underdrain. The rock underdrain will be constructed of durable rock and wrapped in filter fabric.

(6) On completion of the coarse refuse fill, the fill will be covered with noncombustible materials. Drawings detailing the construction methods used to seal the openings are provided with this petition.

To examine or obtain a copy of the petition, map, and drawings, contact MSHA using the information in the ''For Further Information Contact'' section of this notice.

Docket Number: M–2012–004–M.

Petitioner: Troy Mine, Inc., 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Troy Mine Inc., MSHA I.D. No. 24–01467, Highway 56 South Asarco Mine Road, Troy, Montana, 59935, located in Lincoln County, Montana.

Regulation Affected: 30 CFR 57.11055 (Inclined escapeways).

Modification Request: The petitioner requests a modification of the existing standard for underground metal and nonmetal mines to permit the use of a 317-foot portion of a designated secondary escapeway that is steel-encased with secure landings and equipped with a leaky feeder communication system. The petition pertains to a secondary escapeway/raisebore from the Upper C Bed to the Lower Quartzite area. The petitioner states that:

(1) The secondary escapeway/raisebore from the C Bed to the Lower Quartzite area is 42 inches in diameter and steel-encased.

(2) The escapeway/raisebore from the C Bed to the Lower Quartzite area is equipped with a ladder and secure landings at least every 30 feet, which conforms with MSHA's standard for surface travelways in 30 CFR 57.11025.

(3) The secondary escapeway/raisebore from the C Bed to the Lower Quartzite area consists of two sections. The first section is 114 feet beginning at the C Bed and ending at the Upper C Bed. The second section is 317 feet beginning at the Upper C Bed and ending at the Lower Quartzite area.

As an alternative method to the existing standard, the petitioner proposes to:

(1) Install a leaky feeder communication system in the steel-encased secondary escapeway from the C Bed to the Lower Quartzite area to provide the miners in the escapeway with continuous communication with the surface, and allow for notification that personnel are in the raise and on their way out.

(2) Use steel encasement of the escapeway/raisebore to protect the leaky feeder system from damage and protect the miners from exposure to falling rocks in the escapeway.

(3) Configure landings so that they are spaced at a maximum of 30-foot intervals to protect resting miners and prevent them from falling down the escapeway.

(4) Modify the escape and evacuation plan required by 30 CFR 57.11053 to provide for ventilation changes in the event of a fire when using the secondary escapeway, using the following procedures as appropriate:

(a) Reversing the fan direction at the top of the secondary escapeway.

(b) Closing ventilation tubes in the air-walls at the access drifts in each level.

(5) Install radio boxes in the secondary escapeway/raisebore from the C bed to the Lower Quartzite area. The radio boxes will contain several radios, a charging station for the radios, and extra batteries.

(6) Install clear and legible markings at 30-foot intervals denoting the remaining distance to the surface in the secondary escapeway/raisebore.

Within 45 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions to the escape and evacuation plan as required in 30 CFR 57.11053. Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. In addition to the requirements specified in this petition, the proposed revisions will specify initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order.

The petitioner further states that the proposed alternative method provides additional protection above and beyond the requirements of the existing standard by allowing miners in the secondary escapeway to know their exact location in the raise, while they are traveling out of the mine. With this information and the radios provided, exact information on miner locations can be communicated to personnel on the surface to aid in emergency evacuation and rescue.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Dated: June 20, 2012.

George F. Triebsch,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2012–15394 Filed 6–22–12; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0044; Docket No. 50–423]

Central Vermont Public Service Corporation, Gaz Métro Limited Partnership, Dominion Nuclear Connecticut, Inc. (Millstone Power Station, Unit 3); Order Approving Application Regarding Proposed Merger of Central Vermont Public Service Corporation and Gaz Métro Limited Partnership and Indirect Transfer of License

I

Dominion Nuclear Connecticut, Inc. (DNC or the licensee) is authorized to act as the agent for the joint owners of the Millstone Power Station, Unit 3 (MPS3), and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in the Renewed Facility Operating License No. NPF–49. Central Vermont Public Service Corporation (CVPS), one of the joint owners, holds a 1.7303% minority interest in MPS3. MPS3 is located in the town of Waterford, Connecticut.

II

By letter dated September 9, 2011, as supplemented on November 4, 2011, April 6, 2012, and May 4, 2012 (collectively, the application), CVPS and Gaz Métro Limited Partnership (Gaz Métro) submitted an application requesting that the U.S. Nuclear

Regulatory Commission (NRC or the Commission) consent, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.80, to the indirect transfer of control of the operating license for MPS3 to the extent held by CVPS, resulting from the acquisition of CVPS by Gaz Métro.

The application states that on July 11, 2011, CVPS, Gaz Métro, and Danaus Vermont Corp., an independent wholly owned subsidiary of Gaz Métro formed as a merger subsidiary, entered into an Agreement and Plan of Merger. The merger agreement provides that Danaus Vermont Corp. will merge with and into CVPS, with CVPS continuing as the surviving corporation and an indirect wholly owned subsidiary of Gaz Métro. As a result of the transaction, CVPS will become a direct subsidiary of Northern New England Energy Corporation, a Gaz Métro subsidiary and holding company organized and existing under the laws of the State of Vermont and formed to own Gaz Métro's energy-company investments in the United States.

According to the application, CVPS is a Vermont corporation and the largest electric utility in Vermont. Gaz Métro is a Canadian energy company. The merger of Gaz Métro with CVPS will result in the indirect transfer of control of CVPS' 1.7303% interest in the license for MPS3. The principal owner and operator of MPS3 is DNC, which owns 93.4707%. The remaining 4.7990% of the license is owned by Massachusetts Municipal Wholesale Electric Company. This transfer does not affect Massachusetts Municipal Wholesale Electric Company's ownership or DNC's ownership and operation of the facility.

No physical changes to the MPS3 facility or operational changes are being proposed in the application.

Notice of the request for approval and opportunity for a hearing was published in the **Federal Register** on February 27, 2012 (77 FR 11596). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application, the NRC staff has determined that the proposed merger between CVPS and Gaz Métro, as described in the application, will not affect the qualifications of DNC as a holder of the Renewed Facility Operating License No. NPF–49, and that the indirect transfer of the license, to the extent affected by the proposed acquisition, is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the Commission, pursuant thereto, subject to the conditions set forth herein. The foregoing findings are supported by a safety evaluation (SE) dated June 15, 2012.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfers related to the proposed corporate merger, as described herein, is approved, subject to the following conditions:

1. The Negation Action Plan provided to the NRC for review on April 6, 2012 may not be modified in any respect concerning decision-making authority over ''safety issues'' as defined therein without the prior written consent of the Director, Office of Nuclear Reactor Regulation.

2. At least half the members of CVPS' Board of Directors shall be U.S. citizens.

3. The Chief Executive Officer (CEO), Chief Nuclear Officer (CNO) and Chairman of the Board of Directors of CVPS shall be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CVPS with respect to the MPS3 license is at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

4. The CVPS Board of Directors will establish a Special Nuclear Committee (SNC) composed of U.S. citizens, a majority of whom are not officers, directors, or employees of CVPS, Gaz Métro, or any Gaz Métro subsidiaries. The SNC will report to the CVPS Board of Directors on a quarterly basis for informational purposes. The SNC will make available to the NRC for review these and any other reports regarding foreign ownership and control of nuclear operations.

5. Should the proposed corporate merger not be completed within 1 year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 9, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11256A051), as supplemented by letters dated November 4, 2011 (under ADAMS Accession No. ML11311A148), April 6, 2012 (under ADAMS Accession No. ML12100A017), and May 4, 2012 (under ADAMS Accession No. ML12128A433) and the SE dated June 15, 2012, which are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, MD. 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 1–800–397–4209 or 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 15th day of June 2012.

For the Nuclear Regulatory Commission.

Louise Lund,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–15424 Filed 6–22–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10; NRC–2012–0145]

License Renewal Application for Prairie Island Nuclear Generating Plant Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; opportunity to request a hearing and petition for leave to intervene, order.

DATES: A request for hearing and/or petition for leave to intervene must be filed by August 24, 2012.

ADDRESSES: Please refer to Docket ID NRC–2012–0145 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0145. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *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 (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *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.

FOR FURTHER INFORMATION CONTACT: Pamela Longmire, Ph.D., Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–492–3562; email: *Pamela.Longmire@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC or the Commission) is considering an application dated October 20, 2011 (ADAMS Accession number ML11304A068), as supplemented February 29, 2012 (ADAMS Accession number ML12065A073), by Prairie Island Nuclear Generating Plant (PINGP), for the renewal of its Special Nuclear Material (SNM) License No.—2506, under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72. The license authorizes the receipt, possession, storage and transfer of spent fuel, reactor-related Greater than Class C (GTCC) waste and other radioactive materials associated with spent fuel storage at the PINGP site-specific Independent Spent Fuel Storage Installation (ISFSI). The PINGP site is located within the city limits of Red Wing, Minnesota, in Goodhue County. If granted, the renewed license will authorize PINGP to continue to store spent fuel in a dry cask storage system at its ISFSI. Pursuant to the provisions of 10 CFR 72.42, the renewal term of the license for the ISFSI would be forty (40) years. On February 16, 2011 (76 FR 8872), revisions to 10 CFR 72.42 were published changing the renewal term under § 72.42 from 20 years to a period not to exceed 40 years. The changes became effective May 17, 2011.

An NRC docketing acceptance review, documented in a letter to PINGP dated March 30, 2012 (ADAMS Accession number ML12093A059), found that the application contains sufficient information for the NRC staff to begin its technical review. The Commission will approve the license renewal application if it determines that the application meets the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations, including the findings required by 10 CFR 72.40. These findings will be documented in a Safety Evaluation Report. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and finding of no significant impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register**.

II. Opportunity To Request a Hearing; Petition for Leave To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license renewal in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for renewal that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for renewal fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Atomic Safety and Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by August 24, 2012. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). The petition must be filed in accordance with the

filing instructions in section III of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Atomic Safety and Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by August 24, 2012.

III. Electronic Submissions (E-Filing)

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call to 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law

requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from June 25, 2012. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It Is So Ordered.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Dated at Rockville, Maryland, this 19th day of June 2012.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67215; File No. TP 11–07]

Order Granting a Limited Exemption From Exchange Act Rule 10b–17 to Certain Actively Managed Exchange-Traded Funds Pursuant to Exchange Act Rule 10b–17(b)(2)

June 19, 2012.

By letter dated June 19, 2012 (''letter''), as supplemented by conversations with the staff of the Division of Trading and Markets (''Staff''), counsel for PIMCO ETF Trust (''Trust'') requested on behalf of the Trust and PIMCO Global Advantage Inflation-Linked Bond Strategy Fund (''Fund'') that the Securities and Exchange Commission (''Commission'') issue an exemption from Rule 10b–17 under the Securities Exchange Act of 1934, as amended (''Exchange Act''). Specifically, the letter requests that the Commission exempt issuers of actively managed exchange-traded funds (''ETFs'') such as the Trust from the requirements of Exchange Act Rule 10b–17(b)(1)(v)(a) and (b) subject to certain conditions. The request is similar to a number of requests from issuers of actively managed ETFs for conditional exemptive relief from Rule 10b–17 that were granted pursuant to delegated authority (''prior requests'').[1]

Rule 10b–17, with certain exceptions, requires an issuer of a class of publicly traded securities to give timely notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b–17(b). In particular, Rule 10b–17(b)(1)(v)(a) requires that the issuer provide notice, for a dividend or other distribution including a stock or reverse split or rights or other subscription offering, of the amount in cash to be paid or distributed per share.[2] Rule 10b–17(b)(1)(v)(b) requires that the issuer provide notice, also for a dividend or other distribution including a stock or reverse split or rights or other subscription offering, of the amount (in the same security) of the security outstanding immediately prior to and immediately following the dividend or distribution and the rate of the dividend or distribution.

[1] *See, e.g.,* Letter from Josephine J. Tao, Assistant Director to W. John McGuire, Esq., Morgan Lewis & Bockius LLP regarding AdvisorShares Trust (December 16, 2011); Letter from Josephine J. Tao, Assistant Director to Jeremy Senderowicz, Dechert LLP regarding PIMCO Total Return Exchange-Traded Fund (March 1, 2012) and Letter from Josephine J. Tao, Assistant Director to Jack P. Drogin, Schiff Hardin regarding WisdomTree Emerging Markets Corporate Bond Fund (April 16, 2012).

[2] If the exact per share cash distributions cannot be given because of existing conversion rights which may be exercised during the notice period and which may affect the per share cash distribution, Rule 10b–17(b)(1)(v)(a) permits the issuer to provide a reasonable approximation of the per share distribution so long as the actual per share distribution is subsequently provided on the record date.

In adopting Rule 10b–17, the Commission stated its concern that the failure of an issuer to provide timely announcements of record dates may have misleading and deceptive effects.[3] For example, the Commission stated that if buyers and sellers (and their brokers) do not have knowledge that these rights may be forthcoming, they could suffer losses.[4] Also, the Commission found that ''some issuers made belated declarations of stock splits or dividends with the apparent knowledge that this action would have a manipulative effect on the market for their securities.'' [5] The letter represents, as had the prior requests, that the concerns that the Commission raised in adopting Rule 10b–17 will not be implicated if exemptive relief, subject to the conditions below, is granted to the Trust.

We find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rule 10b–17 to any issuer of an actively managed ETF including the Trust. Specifically, other than receiving a delayed notice of the cash distributed and the shares outstanding, market participants will receive timely notification of the existence and timing of a pending distribution as the Fund will comply with all other requirements of Rule 10b–17.[6] Further, the provision of the information required under Rule 10b–17(b)(1)(v)(a) and (b) the day before the ex-dividend date should allow market participants time to update their systems to reflect the accurate price once trading begins on the ex-dividend date.

Conclusion

It Is Hereby Ordered, pursuant to Rule 10b–17(b)(2), that any issuer of an actively managed ETF is exempt from the requirements of Rule 10b–17(b)(1)(v)(a) and (b) with respect to transactions in shares of the actively managed ETF, subject to the following conditions:

- The issuer must comply with Rule 10b–17 except for Rule 10b–17(b)(1)(v)(a) and (b); and
- The issuer must provide the information required by Rule 10b–17(b)(1)(v)(a) and (b) to the national securities exchange upon which shares of the ETF are registered pursuant to section 12 of the Exchange Act (''Exchange'') as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the federal securities laws, particularly Section 10(b) of the Exchange Act, and Rule 10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, such transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[3] Exchange Act Release No. 9192 (Jun. 7, 1971); 36 FR 11513 (Jun. 15, 1971).

[4] *See id.*

[5] *Id.*

[6] Rule 10b–17(b)(1)(v)(a) and (b). We also note that timely compliance with Rule 10b–17(b)(1)(v)(a) and (b) would be impractical in light of the nature of such ETFs. This is because it is not possible for these ETFs to accurately project ten days in advance the composition of the dividend that would be paid on a particular record date.

[7] 17 CFR 200.30–3(a)(9).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67213; File No. SR–NYSEARCA–2012–61]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 2.23 To Prescribe The Registered Proprietary Traders Examination (Series 56) As the Qualifying Examination for Registered Market Makers, Market Maker Authorized Traders, and Floor Brokers

June 19, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 13, 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 self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) [4] of the Act and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon receipt of this filing by 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 Rule 2.23 to prescribe the Registered Proprietary Traders Examination (Series 56) (the ''Series 56 Examination'') as the qualifying examination for registered Market Makers, Market Maker Authorized Traders (''MMAT's''), and Floor Brokers. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Rule 2.23 to prescribe the Series 56 Examination as the qualifying examination for registered Market Makers, MMATs, and Floor Brokers.

NYSE Arca Rule 2.23 currently specifies that the successful completion of the Series 44 examination and an orientation program for such examination is required in order to register as a Market Maker or a MMAT.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

The Exchange proposes to change the prescribed examination for Market Makers and MMATs to the Series 56 Examination. In addition, NYSE Arca Rule 2.23 currently specifies that Floor Brokers must successfully complete the Series 45 within five years of the application date for an OTP and have been an OTP Holder within six months of the application date for an OTP. The Exchange proposes to change the prescribed examination for Floor Brokers to the Series 56 Examination and replace the other requirements of the rule with the successful completion of an orientation program. The requirement to participate in an orientation program is consistent with registration requirements for Market Makers on NYSE Arca.

The Series 56 Examination was developed by a committee comprised of industry representatives, Exchange staff and staff from other SROs. The Series 56 examination tests a candidate's knowledge of proprietary trading generally and the industry rules applicable to trading of equity securities and listed options contracts. The Series 56 examination covers, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.[6] As such the Exchange believes that an applicant who has passed the Series 56 is proven to be qualified to act in the capacity of a Market Maker, Floor Broker and/or MMAT on NYSE Arca.

While NYSE Arca will no longer be offering the Series 44 or Series 45 as qualifying exams to new applicants, the Exchange will continue to recognize any individual who has passed one of those exams as having successfully completed a qualifying exam. An individual presently registered as a Market Maker, MMAT or Floor Broker on NYSE Arca, who has previously passed a qualifying exam as prescribed by the Exchange, will not be required to take the Series 56 as a condition of their continued registration.

Following effectiveness of the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the implementation date within 30 days from the operative date of the rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)[7] of the Securities Exchange Act of 1934 (''Act'') in general, and furthers the objectives of (1) Section 6(c)(3)(B)[8] of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons; and (2) Section 6(b)(5) of the Act,[9] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, 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. The Exchange believes that prescribing the Series 56 Examination for Market Makers, MMATs, and Floor Brokers is appropriate because the Series 56 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as Market Makers, MMATs, and Floor Brokers. In addition, the Series 56 Examination is shared by other exchanges and has become the industry standard.[10] Accordingly, adopting the Series 56 Examination will help to promote consistency in examination requirements and uniformity across markets.

The Exchange also believes it is appropriate to adopt an orientation program for Floor Brokers so that Floor Broker requirements will be more closely aligned with those of Market Makers and MMATs. The Exchange will continue to educate its OTP Holders regarding the requirements that are unique to the Exchange through its orientation programs to ensure that all OTP Holders will continue to be properly registered, trained, and qualified to perform their functions, which will protect investors and the public interest.

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 Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing.

The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay.[15] Waiver of the 30-day operative delay will enable an associated person of an OTP Firm to qualify as a Market Maker, MMAT or Floor Broker on NYSE Arca by passing the Series 56 exam, which is shared by the other options exchanges. In addition, requiring Floor Brokers to participate in an orientation program will make the requirements for Floor Brokers more similar to the requirements for Market Makers and MMATs. The Commission hereby waives the operative delay making the filing effective and operative upon filing.

[6] The Exchange previously submitted detailed content outline for the Series 56 to the Commission. *See* Securities Exchange Act Release No. 66483 (February 28, 2012), 77 FR 13168 (March 5, 2012) (SR–NYSEArca–2012–16).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release No. 64699 (June 17, 2011), 76 FR 36945 (June 23, 2011) (SR–CBOE–2011–056). *See* Securities Exchange Act Release No. 65054 (August 8, 2011), 76 FR 50277 (August 12, 2011) (SR–ISE–2011–36).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NYSEARCA–2012–61 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–2012–61. 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. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEARCA–2012–61 and should be submitted on or before July 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15378 Filed 6–22–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67216; File No. SR–ISE–2012–52]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Allow Competitive Market Makers To Use Their Membership Points To Enter Multiple Quotes in an Options Class

June 19, 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 June 6, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt .03 of the Supplementary Material to Rule 802 (Appointment of Market Makers) to allow Competitive Market Makers (''CMMs'') to use their membership points to enter multiple quotes in an options class. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 11, 2011, the Exchange changed the structure of CMM appointments to give market makers flexibility to choose the options classes to which they are appointed.[3] On October 3, 2011, the Exchange made three refinements to the point values assigned to certain options classes.[4] Currently, under this structure, the Exchange assigns points to each options class equal to its percentage of overall industry volume (not including exclusively-traded index options), rounded down to the nearest hundredth of a percentage, with a maximum of 15 points. New listings are assigned a point value of zero for the remainder of the quarter in which it was listed. A CMM is then permitted to seek appointments to options classes that total twenty points for the first CMM trading right owned or leased by a member, and ten points for each subsequent CMM trading right owned or leased by the same member.[5]

The Exchange is now proposing to adopt .03 of the Supplementary Material to Rule 802 (Appointment of Market Makers) to allow CMMs to use their membership points to enter multiple quotes in an options class. The quoting requirements in ISE Rules will be applicable to each set of quotes that a CMM enters in an options class. In other words, CMMs will not be permitted to aggregate multiple quotes in an options class in order to meet the quoting requirements under ISE Rules. Additionally, there will be no restriction on a CMM seeking appointment to options classes in which it or an affiliated market-maker holds a CMM or

[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. 65100 (Aug. 11, 2011), 76 FR 51075 (Aug. 17, 2011) (order approving SR–ISE–2011–33).

[4] *See* Securities Exchange Act Release No. 65534 (October 12, 2011), 76 FR 64417 (October 18, 2011) (Notice of Filing and Immediate Effectiveness SR–ISE–2011–58).

[5] CMMs can select the options classes to which they seek appointment, but the Exchange retains the authority to make such appointments and to remove appointments from CMMs based on their performance. *See* ISE Rule 802.

Primary Market Maker appointment,[6] provided that such Member has sufficient CMM points for each such appointment.

2. Statutory Basis

The basis under the Act for this proposed rule change is found in Section 6(b)(5),[7] in that the proposed change 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. In particular, the proposal will promote competition by increasing the number of competitive quotes in active options classes traded on the Exchange. The proposed rule change is consistent with the current CMM membership structure because it requires market makers to use their membership points in order to enter multiple quotes. Additionally, the proposed rule change is non-discriminatory in that each CMM is able to choose how to use their membership points. Accordingly, the Exchange believes that the proposed rule change is consistent with the requirements of the Exchange Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the publication date of this notice or within such longer period (1) as the Commission may designate up to 45 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (2) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve or disapprove such Proposed Rule Change; or

(b) Institute proceedings to determine whether the Proposed Rule Change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2012–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–52 and should be submitted on or before July 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15380 Filed 6–22–12; 8:45 am]

BILLING CODE 8011–01–P

[6] The Chicago Board Options Exchange (''CBOE'') has a membership structure that allows a market maker and its affiliates to enter multiple quotes in an options class. CBOE Rule 8.3(c)(vi) restricts market makers from holding appointments in the same class as an affiliate if CBOE uses in that class an allocation algorithm that allocates electronic trades, in whole or in part, in an equal percentage based on the number of market participants quoting at the best bid or offer. The CBOE rule then provides that this restriction does not apply if CBOE uses in a particular options class an allocation algorithm that does not allocate electronic trades, in whole or in part, in an equal percentage based on the number of market participants quoting at the best bid or offer. Unlike the CBOE, the ISE allocation algorithm does not provide for the potential allocation of orders, in whole or in part, in an equal percentage based on the number of market participants quoting at the best bid or offer. ISE Rule 713. Therefore, the proposed ISE rule text does not reference the restriction contained in CBOE Rule 8.3(c)(vi).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67214; File No. SR–NYSEMKT–2012–09]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 921NY, 921.1NY, and 931NY Prescribing the Registered Proprietary Traders Examination (Series 56) as the Qualifying Examination for Registered Market Makers, Market Maker Authorized Traders, and Floor Brokers

June 19, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 13 2012, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19 (b)(3)(A)(iii) [4] of the Act and Rule 19b–4(f)(6) thereunder [5] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

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 prescribe the Registered Proprietary Traders Examination (Series 56) (the ''Series 56 Examination'') as the qualifying examination for registered Market Makers, Market Maker Authorized Traders (''MMATs''), and Floor Brokers. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to prescribe the Series 56 Examination as the qualifying examination for registered Market Makers, MMATs, and Floor Brokers.

Exchange Rule 921NY specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a Market Maker. Exchange Rule 921.1NY specifies that an applicant must pass an examination conducted by the Exchange in order to register as a MMAT. For the purposes of these rules, NYSE Amex Options has prescribed the Series 48 as the qualifying exam for both Market Makers and MMATs. Exchange Rule 931NY specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a Floor Broker. For the purposes of this rule, NYSE Amex Options has prescribed the Series 49 as the qualifying exam for Floor Brokers. NYSE Amex Options proposes to change the prescribed examination for Market Makers, MMATs, and Floor Brokers to the Series 56 Examination. In addition, the Exchange proposes to add a parenthetical reference to the Series 56 examination to Rules 921NY, 921.1NY and 931NY.

The Series 56 Examination was developed by a committee comprised of industry representatives, Exchange staff and staff from other SROs. The Series 56 Examination tests a candidate's knowledge of proprietary trading generally and the industry rules applicable to trading of equity securities and listed options contracts. The Series 56 Examination covers, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.[6] As such the Exchange believes that an applicant who has passed the Series 56 is proven to be qualified to act in the capacity of a Market Maker, Floor Broker and/or MMAT on NYSE Amex Options.

While NYSE Amex Options will no longer be offering the Series 48 or Series 49 as qualifying exams to new applicants, the Exchange will recognize any individual who has passed one of those exams as having successfully completed a qualifying exam. An individual presently registered as a Market Maker, MMAT or Floor Broker on NYSE Amex Options, who has previously passed a qualifying exam as prescribed by the Exchange, will not be required to take the Series 56 as a condition of their continued registration.

Following effectiveness of the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the compliance date within 30 days of the operative date of the rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)[7] of the Securities Exchange Act of 1934 (''Act'') in general, and furthers the objectives of (1) Section 6(c)(3)(B)[8] of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons; and (2) Section 6(b)(5) of the Act,[9] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, 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. The Exchange believes that prescribing the Series 56 Examination for Market Makers, MMATs, and Floor Brokers is appropriate because the Series 56 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as Market Makers, MMATs, and Floor Brokers. In addition, the Series 56 Examination is shared by other exchanges and has become the industry standard.[10] Accordingly, adopting the Series 56 Examination will help to promote consistency in examination requirements and uniformity across markets

The Exchange will continue to educate its ATP Holders regarding the requirements that are unique to the Exchange through its orientation programs to ensure that all ATP Holders will continue to be properly registered, trained, and qualified to perform their functions, which will protect investors and the public interest.

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 Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if

[6] The Exchange previously submitted detailed content outline for the Series 56 examination to the Commission. *See* Securities Exchange Act Release No. 66482 (February 28, 2012), 77 FR 13170 (March 5, 2012) (SR–NYSEAmex–2012–13).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release No. 64699 (June 17, 2011), 76 FR 36945 (June 23, 2011) (SR–CBOE–2011–056). *See* Securities Exchange Act Release No. 65054 (August 8, 2011), 76 FR 50277 (August 12, 2011) (SR–ISE–2011–36).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing.

The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay.[15] Waiver of the 30-day operative delay will enable an associated person of an Exchange firm to qualify as a Market Maker, MMAT or Floor Broker on NYSE Amex Options by passing the Series 56 exam, which is shared by the other options exchanges. The Commission hereby waives the operative delay making the filing effective and operative upon filing.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NYSEMKT–2012–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2012–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEMKT–2012–09 and should be submitted on or before July 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15379 Filed 6–22–12; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67212; File No. SR–ISE–2012–55]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Fee Discount Pilot Program for Large-Sized Foreign Currency Options

June 19, 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 June 12, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to extend for an additional year the fee discount for large-sized foreign currency (''FX'') option orders. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend for an additional year the fee discount for large-sized FX option orders. The Exchange initially adopted the fee discount for large-sized FX option orders in 2008.[3] The fee discount pilot program was subsequently extended [4] and is now set

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58139 (July 10, 2008), 73 FR 41142 (July 17, 2008) (SR–ISE–2008–54).

[4] *See* Securities Exchange Act Release Nos. 60192 (June 30, 2009), 74 FR 32211 (July 7, 2009) (SR–ISE–2009–42); and 62506 (July 15, 2010), 75 FR 42801 (July 22, 2010) (SR–ISE–2010–67).

to expire on June 30, 2012.[5] The fee discount applies to orders of 250 contracts or more and waives fees on incremental volume above 250 contracts. Contracts at or under the threshold are charged the constituent's prescribed execution fee. The fee discount applies to all Customer[6] orders, Firm Proprietary orders, Market Maker orders and Non-ISE Market Maker orders in FX options traded on the Exchange. ISE adopted this fee discount to encourage members to execute large-sized FX option orders on the Exchange in a manner that is cost effective. The Exchange now proposes to extend this fee discount through June 30, 2013 in a continuing effort to attract more activity in large-sized FX options.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes the proposed rule change is reasonable and equitable as it would extend a current fee discount, thus effectively maintaining low fees for all market participants that trade in large-sized FX options on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[5] *See* Securities Exchange Act Release No. 64743 (July 24, 2011), 76 FR 38434 (June 30, 2011) (SR–ISE–2011–35).

[6] The fee discount applies to both Professional and Priority Customer orders. A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–ISE–2012–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–55. 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 Commissions 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–55 and should be submitted by July 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15377 Filed 6–22–12; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Free Trade Agreements; Invitation for Applications for Inclusion on Dispute Settlement Lists for U.S. Free Trade Agreements (FTAs) With Australia, Colombia, Korea, Morocco, and Singapore

AGENCY: Office of the United States Trade Representative (''USTR'').

ACTION: Invitation for Applications.

SUMMARY: A number of trade agreements to which the United States is a Party call for the Parties to establish indicative rosters or reserve or contingent lists of persons (''lists'') available to serve on dispute settlement panels to hear disputes under those agreements. These agreements include the United States-Australia Free Trade Agreement (''USAFTA''), the United States-Colombia Trade Promotion Agreement (''USCTPA''), the United States-Korea Free Trade Agreement (''KORUS''), the United States-Morocco Free Trade Agreement (''USMFTA''), and the United States-Singapore Free Trade Agreement (''USSFTA''). USTR is inviting interested persons to apply to be on one or more of these lists under the various agreements, as indicated below.

DATES: Applications should be received no later than August 9, 2012 to be assured of consideration.

ADDRESSES: Applications should be submitted electronically to

www.regulations.gov, docket number USTR–2012–0009. If you are unable to submit an application using *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For information regarding the form of the application, contact Sandy McKinzy, Legal Technician, USTR Office of Monitoring and Enforcement, at (202) 395–3582. For other inquiries, contact Catherine Field, Chief Counsel, at (202) 395–3432 (for the USAFTA), María Pagán, Associate General Counsel, at (202) 395–3150 (for the USCTPA), Cletus Willems, Assistant General Counsel, at (202) 395–3150 (for the KORUS), Courtney Smothers, Associate General Counsel, at (202) 395–3581 (for the USMFTA), and Willis Martyn, Associate General Counsel, at (202) 395–3582 (for the USSFTA).

SUPPLEMENTARY INFORMATION: USTR is seeking applications from interested persons to serve on any of the lists under any of the cited agreements. The details for how to apply are provided below as is a short description of the lists for each agreement. A person is permitted to apply for a single list or any combination of lists. In response to this notice, USTR will accept applications from U.S. citizens and nationals of other countries.

Dispute Settlement Mechanism of the USAFTA

The USAFTA is a bilateral agreement in force between the United States and Australia. Chapter 21 of the USAFTA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) Consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, comprised of officials from each Party and chaired by officials from USTR and Australia's Ministry of Foreign Affairs and Trade, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties or from the contingent list.

The USAFTA requires the Parties to establish a contingent list of ten individuals who are willing and able to serve as panelists. Individuals on the contingent list are appointed by agreement of the Parties for a minimum term of three years, and remain on the list until the Parties form a new contingent list. See USAFTA Article 21.7(4).

The USAFTA provides for each Party to select within a specified time period one panelist in consultation with the other Party and then for both to agree on a chair. The contingent list comes into play only if this process fails. The Parties decided that in such a circumstance, it would be best if the panelist were not a national of either Party. Accordingly, applications are sought only from persons who are not a national of either the United States or Australia.

The text of the USAFTA can be found on the USTR Web site (*www.ustr.gov/trade-agreements/free-trade-agreements*).

Criteria for Eligibility for Inclusion on the Contingent List

To qualify for inclusion on the contingent list an applicant must: (1) Be objective, reliable, and possess sound judgment; (2) have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement Mechanism of the USCTPA

The CTPA is a bilateral agreement in force between the United States and Colombia (the ''Parties''). The CTPA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) Lower level consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Free Trade Commission, consisting of the cabinet-level representatives of the consulting Parties, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties or drawn from the indicative roster.

The USCTPA requires the establishment of an indicative roster from which panelists may be selected by lot if the Parties have otherwise failed to appoint panelists. The indicative roster is to be composed of eight individuals, two of whom are to be individuals who are not a national of either Party. Once established, the roster remains in effect for a minimum of three years. See CTPA Articles 21.7 and 21.9.

The text of the CTPA can be found through the Office of the U.S. Trade Representative Web site (*www.ustr.gov/trade-agreements/free-trade-agreements*).

Criteria for Eligibility for Inclusion on the CTPA Indicative Roster

To qualify for inclusion on the indicative roster an applicant must: (1) Have expertise or experience in law, international trade, other matters covered by the Agreement, or the resolution of disputes arising under international trade agreements; (2) be objective, reliable, and possess sound judgment; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement Mechanism of the KORUS

The KORUS is a bilateral agreement in force between the United States and Korea. The KORUS sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) Consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, comprised of officials from each Party and chaired by officials from USTR and Korea's Ministry of Foreign Affairs and Trade, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties.

The KORUS requires the establishment of a contingent list of individuals who are willing and able to serve as panelists. The contingent list shall include at least six nationals of each Party and at least eight individuals who are not nationals of either Party. An individual on the contingent list shall remain on the list for a minimum of three years. See KORUS, Article 22.9.3.

The text of the KORUS can be found on the USTR Web site (*www.ustr.gov/trade-agreements/free-trade-agreements*).

Criteria for Eligibility for Inclusion on the Contingent List

To qualify for inclusion on the contingent list an applicant must: (1) Be objective, reliable, and possess sound judgment; (2) have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement Under the USMFTA

The USMFTA is a bilateral agreement in force between the United States and Morocco. The USMFTA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) Consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, comprised of officials from each Party and chaired by officials from USTR and the Ministry of Foreign Affairs and Cooperation of the Kingdom of Morocco, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. Unless the Parties agree otherwise, the panel is composed of three individuals chosen by the Parties or selected from the reserve list.

The USMFTA requires the establishment of a reserve list from which panelists may be selected. The reserve list is to be composed of eight individuals. Once established, the reserve list remains in effect for a minimum of three years. See USMFTA Article 20.7.

Upon each request for establishment of a panel, potential panelists may be requested to complete a disclosure form, which could be used to identify possible conflicts of interest or appearances thereof. The disclosure form may request information regarding financial interests and affiliations, including information regarding the identity of clients of the potential panelist and, if applicable, clients of the potential panelist's firm.

The text of the USMFTA can be found through the Office of the U.S. Trade Representative Web site (*www.ustr.gov).*

Criteria for Eligibility for Inclusion on the Reserve List

To qualify for inclusion on the reserve list an applicant must: (1) Have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (2) be objective, reliable, and possess sound judgment; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement Under the USSFTA

The USSFTA is a bilateral agreement in force between the United States and Singapore. Chapter 20 of the USSFTA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) Consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, composed of officials from each Party and chaired by officials from USTR and Singapore's Ministry for Trade and Industry, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties or from the contingent list.

This agreement provides for each Party to select within a specified time period one panelist in consultation with the other Party and then for both to agree on a chair. The contingent list comes into play only if this process fails. The Parties decided that in such a circumstance, it would be best if the panelist were not a national of either party. Accordingly, applications are sought only from persons who are not a national of either the United States or Singapore.

The USSFTA requires the Parties to establish a contingent list of five individuals who are willing and able to serve as panelists. Individuals on the contingent list are appointed by agreement of the Parties for a minimum term of three years, and remain on the list until the Parties form a new contingent list. See USSFTA Article 20.4(4)(b).

The text of the USSFTA can be found on the USTR Web site (*www.ustr.gov/trade-agreements/free-trade-agreements*).

Criteria for Eligibility for Inclusion on the Contingent List

To qualify for inclusion on the contingent list an applicant must: (1) Have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (2) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct to be established by the Joint Committee.

Procedures for Selection of Members of Lists

An interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the various lists. After consultation with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, USTR selects the final list of individuals that the United States will nominate for inclusion on each of the lists. The members of a list under a particular FTA are appointed by agreement of the Parties to that FTA.

Applications

Eligible individuals who wish to be considered for inclusion on one or more of the lists are invited to submit applications.

Persons submitting applications should submit one copy electronically to *www.regulations.gov,* docket number USTR–2012–0009. If you are unable to submit an application using *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

Applications must be typewritten, and should be headed ''Application for Inclusion on a List.'' Applicants must specify for which of the FTA's they wish to be considered. Applicants may specify more than one FTA. Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Fluency in any relevant language other than English, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning the relevant area of expertise. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.
10. A list of international trade proceedings or domestic proceedings relating to international trade matters or other relevant matters in which the applicant has provided advice to a party or otherwise participated.
11. Summary of any current and past employment by, or consulting or other work for, the Government of the United States and the Government(s) of the other Party(ies) to each agreement for which the applicant is applying (i.e., Australia, Korea, Morocco, or Singapore).
12. The names and nationalities of all foreign principals for whom the

applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.,* and the dates of all registration periods.

13. A short statement of qualifications and availability for service on dispute settlement panels under the relevant agreement, including information relevant to the applicant's familiarity with international trade law and relevant area(s) for the list(s) for which the applicant seeks to be considered, and willingness and ability to make time commitments necessary for service on panels.

14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with the relevant area of expertise.

Public Disclosure

Applications normally will not be subject to public disclosure and will not be posted publicly on *www.regulations.gov.* Applications may be shared with other agencies, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Government(s) of the other Party(ies) for their consideration in determining whether to appoint persons to the relevant lists.

False Statements

False statements by an applicant regarding his or her personal or professional qualifications, or financial or other relevant interests that bear on the applicant's suitability for placement on a list or appointment to a panel are subject to criminal sanctions under 18 U.S.C. 1001.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (''PRA'') that has been approved by the Office of Management and Budget (''OMB''). Notwithstanding any other provision of law, no person is 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 PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish voluntarily to apply for inclusion on a list. It is expected that the collection of information burden will be less than three hours. This collection of information contains no annual reporting or record keeping burden. This collection of information was approved by OMB under OMB Control Number 0350–0014. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at *www.regulations.gov.*

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). Provision of the information requested above is voluntary; however, failure to provide the information will preclude consideration as a candidate for inclusion on a list. This information is maintained in a system of records entitled ''Dispute Settlement Panelists Roster.'' Notice regarding this system of records was published in the **Federal Register** on November 30, 2001. The information provided is needed, and will be used by USTR, other federal government trade policy officials concerned with dispute settlement under the relevant agreement, and officials of the other Party(ies) to select well-qualified individuals for inclusion on the lists and for service on dispute settlement panels.

Daniel E. Brinza,

Senior Counsel for Dispute Settlement.

[FR Doc. 2012–15449 Filed 6–22–12; 8:45 am]

BILLING CODE 3190–W2–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–25]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 16, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2012–0442 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keira Jones (202) 267–4024 or Tyneka Thomas (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 19, 2012.

Brenda Courtney,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2012–0442.

Petitioner: Experimental Aircraft Association.

Section of 14 CFR Affected: 14 CFR 91.319(a)(2); 61.101(a)(2); 61.101(e)(3) and (4); 61.113(a); 61.113(b); 61.113(c); 61.315(b); 61.315(c)(1) and (2);

120.105(a) and (g); and 120.215(a)(1) and (7).

Description of Relief Sought: Petitioner requests relief from certain pilot certification, aircraft airworthiness limitations, and from drug and alcohol testing requirements. The exemption, if granted, would allow reimbursement for operating expenses incurred when providing free flight experiences to event participants when volunteering at Experimental Aircraft Association Eagle Flights and Young Eagles events.

[FR Doc. 2012–15450 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–26]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before July 16, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2012–0620 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tyneka Thomas ARM–105, (202) 267–7626, FAA, Office of Rulemaking, 800 Independence Ave. SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 19, 2012.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2012–0620.

Petitioner: Cecilia Braithewaite.

Section of 14 CFR Affected: 14 CFR 121.311(b).

Description of Relief Sought: This is a request for an exemption from § 121.311(b) to the extent required for two typically developing children to use FAA Approved Child Restraint Systems (CRS) on an aircraft, even though the children exceed the weight limits for the CRS. The petitioner requests that these children be allowed to occupy an FAA Approved Child Restraint (CARES, manufactured by AmSafe, Inc.), even though they exceed the manufacturer's weight limits of 44 pounds. In this case, the safety of these children is greatly enhanced by the extra support and security that the FAA Approved Restraint System will provide for them during the flight.

[FR Doc. 2012–15446 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–21]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before July 16, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2012–0158 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to

http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tyneka Thomas ARM–105, (202) 267–7626, FAA, Office of Rulemaking, 800 Independence Ave. SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 14, 2012.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2012–0158.

Petitioner: Patient Airlift Services, Inc.

Section of 14 CFR Affected: 14 CFR 119.1 and 119.21.

Description of Relief Sought: Patient Airlift Services Inc. (PALS), is a not-for-profit organization that arranges free air transportation, for humanitarian and patient transport, using volunteer pilots and staff members flying donated planes. PALS is seeking an exemption to the operating requirements for air carriers and/or commercial operations.

[FR Doc. 2012–15444 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Laurinburg-Maxton Airport, Maxton, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Laurinburg-Maxton Airport Commission to waive the requirement that approximately 10 acres of airport property, located at the Laurinburg-Maxton Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before July 25, 2012.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Rusty Nealis, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to JoAnn Gentry, Executive Director, Laurinburg-Maxton Airport Commission at the following address: Laurinburg-Maxton Airport Commission, 16701 Airport Road, Maxton, NC 28364.

FOR FURTHER INFORMATION CONTACT: Rusty Nealis, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Campus Building, Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7142. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Laurinburg-Maxton Airport Commission to release approximately 10 acres of airport property at the Laurinburg-Maxton Airport. The property consists of one parcel located at the northeast intersection of S.R. 1434 (Airport Road) and S.R. 1472 (Jump Road). This property is currently shown on the approved Airport Layout Plan as non-aeronautical use land and the proposed use of this property is compatible with airport operations. The City will sell the property for industrial use with proceeds of the sale providing funding for future airport development.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Laurinburg-Maxton Airport.

Issued in Atlanta, Georgia, on June 12, 2012.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2012–15278 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Columbus County Municipal Airport, Whiteville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Columbus County Airport Authority to waive the requirement that approximately 0.88 acres of airport property, located at the Columbus County Municipal Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before July 25, 2012.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Rusty Nealis, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the RAA must be mailed or delivered to Phil Edwards, Airport Director, Columbus County Municipal Airport at the following address: Columbus County Municipal Airport, 467 Airport Road, Whiteville, NC 28472.

FOR FURTHER INFORMATION CONTACT: Rusty Nealis, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Campus Building, Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7142. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Columbus County Airport Authority to release approximately 0.88 acres of airport property at the Columbus County Municipal Airport. The property consists of one parcel located on the northwest side of the airfield. This land is being swapped for an equivalent sized parcel closer to the airfield which is needed by the airport to construct a parallel taxiway.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Columbus County Municipal Airport.

Issued in Atlanta, Georgia, on June 12, 2012.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2012–15280 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Federal Agency Actions on Proposed Bridge Replacement in Massachusetts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Actions by the

Army Corps of Engineers, (USACE) and the United States Coast Guard (USCG).

SUMMARY: This notice announces action taken by the United States Army Corps of Engineers (USACE) and the United States Coast Guard (USCG) that is final within the meaning of 23 U.S.C. 139(*l*)(1). The action relates to the proposed Fore River Bridge (State Route 3A over the Weymouth Fore River) replacement project in Quincy and Weymouth, Norfolk County, Massachusetts. The action grants licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 24, 2012. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Damaris Santiago, Environmental Engineer, FHWA Massachusetts Division Office, 55 Broadway, 10th Floor, Cambridge, MA 02142, 617–494–2419, *dsantiago@dot.gov.* For Massachusetts Department of Transportation Highway Division (MassDOT): Michael Furlong, Project Manager, Environmental Services, 10 Park Plaza, Room 4260, Boston, MA 02116, Monday through Friday 8:45 a.m.–5:00 p.m., 617–973–8067. *michael.furlong@state.ma.us.*

SUPPLEMENTARY INFORMATION: On January 11, 2012, the FHWA published ''Notice of Final Federal Agency Actions on Proposed Bridge in Massachusetts'' in the **Federal Register** at 77 FR 1782. The proposed project involves the replacement of the temporary bridge over the Weymouth Fore River in Quincy and Weymouth,

Massachusetts with a vertical lift bridge, as well as reconstruction of the immediate approaches. The bridge will provide a 250-foot navigable, horizontal opening with a 175-foot vertical clearance on the same alignment of the 1936 bridge, and will have two travel lanes in each direction, shoulders, and sidewalks. The Finding of No Significant Impact (FONSI) for this project was issued December 12, 2011. Notice is hereby given that, subsequent to the earlier FHWA notice, the USACE and USCG have taken final agency actions within the meaning of 23 U.S.C. 139(*l*)(1) by issuing permits and approvals for the bridge project. The actions by the USACE and USCG, related final actions by other Federal agencies, and the laws under which such actions were taken, are described in the USACE and USCG decisions and its administrative record for the project, referenced as USACE Permit Numbers NAE–2009–360A and NAE–2009–360B, and USCG Bridge Permit number 1–12–1. That information is available by contacting the Massachusetts Department of Transportation at the address provided above.

Information about the project also is available from the FHWA at the address provided above. The FHWA FONSI, and the USACE and USCG decisions can also be viewed and downloaded from the project Web site at: *http://www.massdotprojectsforeriverbridge.info/.*

This notice applies to all USACE, USCG and other Federal agency final actions taken after the issuance date of the FHWA **Federal Register** notice described above. The laws under which actions were taken include, but are not limited to:

(1) The General Bridge Act of 1946.

(2) Section 404 of the Clean Water Act of 1972.

(3) Section 9 & 10 of the Rivers and Harbors Act of 1899, as applicable.

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: June 14, 2012.

Pamela S. Stephenson,

Division Administrator, Cambridge, MA.

[FR Doc. 2012–15243 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–RY–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2011–0122]

Revision of Form FHWA–1273

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This final notice announces the availability of revised form FHWA–1273—''Required Contract Provisions Federal-Aid Construction Contracts.'' This form includes certain contract provisions that are required on all Federal-aid construction projects. Federal-aid recipients must incorporate the revised form in Federal-aid construction projects no later than 45 days after publication of this final notice.

DATES: *Effective Date:* The final notice is effective August 9, 2012.

FOR FURTHER INFORMATION CONTACT: Gerald Yakowenko, Office of Program Administration, (202) 366–1562, *gerald.yakowenko@dot.gov* or Michael Harkins, Office of the Chief Counsel, (202) 366–4928, *michael.harkins@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document may be viewed online through the Federal eRulemaking portal at: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 366 days this year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov/federal-register* and the Government Printing Office's Web page at: *http://www.gpo.gov/fdsys.*

Background

On January 31, 2012, at 77 FR 4880, FHWA published a notice and request for comments regarding FHWA's proposal to revise form FHWA–1273. As provided in 23 CFR 633.103, form FHWA–1273 includes contract provisions and proposal notices that are required by regulations promulgated by the FHWA or other Federal agencies. The provisions include non-discrimination, prevailing wage rates, subcontracting, job-site safety and other important requirements that must be included in every Federal-aid construction project. According to 23 CFR 633.104(a), FHWA will update the form as regulatory revisions occur. Since form FHWA–1273 was last revised on March 10, 1994, a number of regulatory revisions have occurred that necessitate the revision of the form.

Discussion of Comments

I. Summary

All comments received in response to the notice and request for comments have been considered in adopting this final notice. Comments were received from five representatives of three State departments of transportation (State DOT). The following discussion identifies and summarizes the major comments submitted by the commenters in response to the January 31, 2012, notice, as well as FHWA's response to those comments.

II. General Comments

Comment: A representative of the New Jersey DOT indicated that their contracts specifically preclude subcontractors from being a party to the

prime contract, and therefore, any direction to a subcontractor is not appropriate. This representative also noted that instructions or directions as to what State agencies must or must not do are not relevant or appropriate for inclusion in contract requirements between the New Jersey DOT and the contractor.

FHWA Response: Form FHWA–1273 is a compilation of Federal provisions that are required to be inserted into federally funded contracts and subcontracts. Under 23 CFR 633.102(d), these required contract provisions apply to all work performed on the contract by the prime contractor's own organization and by all of the prime's subcontractors. Pursuant to 23 CFR 633.102(b) and (e), form FHWA–1273 is to be physically incorporated into each Federal-aid highway construction contract and into each subcontract. These regulations were promulgated under lawful authority and are enforceable. Additionally, FHWA did not propose any changes to existing regulations. As such, FHWA cannot accept comments that would require FHWA to amend existing regulations. New Jersey DOT's comments would require FHWA to amend existing regulations.

III. Analysis of and Response to Comments by Section

Section I. General

The Wyoming DOT recommended that FHWA either mandate the inclusion of the FHWA–1273 in every subcontract agreement, purchase order, and rental agreement, or allow the contractor to reference form FHWA–1273. Also, a representative from the Pennsylvania DOT (PennDOT) recommended that FHWA consider allowing the States to include form FHWA–1273 in published standard specification documents (e.g. PennDOT Publication 408 Specifications) that become part of every construction contract by reference. This commenter stated that including form FHWA–1273 in the standard specifications publication would make the provisions available at all times for review.

FHWA Response: While FHWA appreciates the recommendations to reduce paperwork by allowing the incorporation of form FHWA–1273 by reference, FHWA is not able to comply with this request for several reasons. First, as explained in the January 31 notice, form FHWA–1273 incorporates existing regulatory requirements. As a result, FHWA proposed updates to make the form consistent with existing regulatory requirements. Since FHWA's regulatory policy in 23 CFR 633.102 requires physical incorporation of form FHWA–1273 in each contract and subcontract, the FHWA would have to amend this requirement through the rulemaking process. Second, the U.S. Department of Labor's (DOL) regulation at 29 CFR 5.5 requires the physical insertion of certain contract provisions in all contracts, which are reflected in form FHWA–1273. Lastly, FHWA is mindful of the burdens associated with excess paperwork. As such, FHWA permits form FHWA–1273 to be incorporated by reference in bid proposals or request for proposal documents, purchase orders, rental agreements and other agreements for supplies or services related to a construction contract. However, form FHWA–1273 must continue to be physically incorporated into all Federal-aid highway contracts and subcontracts.

Section II. Nondiscrimination

Comment 1: A representative of the PennDOT recommended that the word ''qualifiable'' be used in addition to the term ''qualified'' in the first sentence of Section II.4.a.

FHWA Response 1: Without a definition of ''qualifiable'' that adds clarity to this issue, FHWA does not believe that this recommendation improves clarity. The existing phrase, ''sources likely to yield qualified minorities and women,'' is adequate to convey the intent of this section.

Comment 2: The Wyoming DOT recommended moving the language of Section II, 10(a) and inserting it under Section II. 9 as item (c).

FHWA Response 2: It is important to keep the Equal Employment Opportunity Responsibilities of Section 9 of Appendix A to Subpart A of 23 CFR Part 230 separate from the 49 CFR Part 26 provisions and assurances. Therefore, no change is made.

Comment 3: The Wyoming DOT recommended that FHWA clarify the requirements of Section II, 11(b) which require the submittal of Form PR–1391–''Federal-aid Highway Construction Contractors Annual EEO Report'' each July. It was suggested that FHWA either remove the PR–1391 reporting requirement or require companies to submit one report listing their total company workforce rather than the project-related workforce. The Wyoming DOT stated that this would more accurately reflect the contractor's or subcontractor's actual affirmative action accomplishments and reduce the reporting burden.

FHWA Response 3: The information collected through form FHWA–1391 provides a snapshot of the contractor's project-related workforce during the last payroll period preceding the end of July. Title 23 CFR 230.121(a)(2) requires the submittal of reports for each covered contract or subcontract under a Federal-aid project. While some Federal agencies that enforce Federal laws for equal employment opportunity (e.g. the DOL Office of Federal Contract Compliance and the Equal Employment Opportunity Commission) have broad authority to collect employment information about a company's workforce, FHWA does not. The FHWA's authority is limited to specific Federal-aid projects. Thus, no change is made to the language in Section II.11.b.

Comment 4: A representative of the New Jersey DOT stated that unless there are statutory requirements to comply with the storage requirements noted in Section II. 11, the requirements will not be enforceable after the contract is accepted.

FHWA Response 4: The recordkeeping requirement is a regulatory requirement found in Appendix A, Section 10, to Subpart A of 23 CFR Part 230. As such, the requirement is enforceable. A regulation has the force and effect of law.

FHWA Modification: During the final review process of form FHWA–1273, FHWA decided that it is preferable to maintain the existing language in Section II.9 regarding the bases for discrimination. To be consistent with statutory bases for discrimination, in the final version of the form we have removed the proposed use of ''anyone'' in Section II.9 and restored the original language which provides that ''The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.''

Section IV. Davis-Bacon and Related Act Provisions

Comment 1: The Wyoming DOT commented that Section IV.3(a), (b) and (c), require the prime contractor to retain, house, and make available payroll documents for a period of 3 years after the completion of the project and further recommended that it should be the sole responsibility of prime contractors to review, retain, and house payroll documents for their subcontractors and lower-tier subcontractors. The Wyoming DOT stated that State DOTs should not be required to maintain payroll documents since that information would be available upon request if the State found it necessary to perform an audit or investigation.

FHWA Response 1: As explained above, form FHWA–1273 incorporates existing regulatory requirements. As a result, FHWA proposed updates to make the form consistent with existing regulatory requirements. The requirement for the contractor to submit a copy of all payrolls to the contracting agency is a DOL regulatory requirement at 29 CFR 5.5(a)(3). The FHWA does not have the authority to modify this requirement and must incorporate the full text of the DOL's contract clauses in form FHWA–1273.

Comment 2: A representative of the PennDOT inquired about the removal of the reference to social security numbers in Section IV.3.

FHWA Response 2: On December 19, 2008, DOL issued a final rule titled, ''Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction.'' This rule revised the DOL's regulatory policy to better protect the personal privacy of laborers and mechanics employed on covered construction contracts. The rule changed the reporting requirements concerning the use of full social security numbers and home addresses on weekly payroll statements provided to contracting agencies. As a result of the rule, payroll statements are only required to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). However, it did not change the requirements in 29 CFR 5.5(a)(3)(i) for contractors to maintain that information on their own payroll records.

Section VI. Subletting or Assigning the Contract

Comment 1: The Wyoming DOT noted a typographic error in Section VI.2 that incorrectly references Section VII.

FHWA Response 1: The correction will be made in the final document.

Comment 2: A representative of the Wyoming DOT recommended that Section VI.2 be clarified by stating that the purchase of materials and manufactured products, if done by the prime contractor, will count as part of the minimum 30 percent of work that prime contractors are required to perform with their own organizations.

FHWA Response 2: The FHWA believes that the phrase ''total original contract price'' as used in Section VI.1 and 23 CFR 635.116 provides sufficient clarity as to what is required. Therefore, no changes are made.

Section VIII. False Statements Concerning Highway Projects

Comment: The Wyoming DOT recommended that the second sentence of paragraph two be clarified to reference form FHWA–1022, which is the False Statements poster required by 23 CFR 635.119. Wyoming also recommended that the phrase, ''Notice to all Personnel Engaged on Federal-Aid highway Projects,'' be removed.

FHWA Response: FHWA agrees with both recommendations. The appropriate revisions will be made in the final document.

Sections IX and X

Comment: A representative of PennDOT noted an inconsistency between references to the submission of bids and the submission of proposals.

FHWA Response: FHWA agrees and the final document will be revised to use the terms bids/proposals or bidders/proposers as appropriate.

Final Form FHWA–1273

Pursuant to 23 CFR 633.104(a), FHWA has updated form FHWA–1273 to be consistent with existing regulatory requirements. The FHWA published the proposed revised form FHWA–1273 for public comment on January 31, 2012. After considering all the comments, the FHWA has incorporated all appropriate edits into the revised form FHWA–1273. As such, the revised form FHWA–1273, which can be found at *http://www.fhwa.dot.gov/programadmin/contracts/1273.cfm,* should be used as soon as possible after publication of this notice and no later than August 9, 2012.

Authority: 23 U.S.C. 315; 23 CFR 633.104(a).

Issued on: June 18, 2012.

Victor M. Mendez,

Administrator.

[FR Doc. 2012–15342 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0075; Notice 1]

BMW of North America, LLC, a Subsidiary of BMW AG; Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: BMW of North America, LLC,[1] a subsidiary of BMW AG,[2] has determined that certain model year 2012 BMW X6M SAV multipurpose passenger vehicles (MPV) manufactured between April 1, 2011 and March 23, 2012, do not fully comply with paragraph S4.3(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.* BMW has filed an appropriate report dated April 4, 2012, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Vehicles involved: Affected are approximately 364 model year 2012 BMW X6M SAV MPVs manufactured between April 1, 2011 and March 23, 2012.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 364 [3] vehicles that BMW no longer controlled at the time it determined that the noncompliance existed.

Noncompliance: BMW explains that the noncompliance is that the tire

[1] BMW of North America, LLC, is a U.S. company that manufacturers and imports motor vehicles.

[2] BMW AG, is a German company that manufactures motor vehicles.

[3] BMW's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt BMW as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR part 573 for the 364 affected vehicles. However, a decision on this petition will not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

placard on the affected vehicles incorrectly identifies the rear designated seating capacity as ''2'' when in fact it should be ''3,'' and the total designated seating capacity as ''4'' when in fact it should be ''5.''

Rule text: Paragraph S4.3(b) of FMVSS No. 110 requires in pertinent part:

S4.3(b) Placard. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. * * *

(b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each front and rear seat location); * * *

Summary of BMW's Analysis and Arguments

BMW states that while the tire placard incorrectly identifies the vehicle seating capacity, this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. It would become clear to a vehicle owner that the rear seat of the affected vehicles contains three sets of seat belts, and provides adequate space for three people to occupy the rear seat and that the vehicle in fact does accommodate five passengers not four as labeled.

2. The tire pressure value on the tire placard is correct. In fact, the recommended tire inflation pressure for both the five passenger and the four passenger vehicles is the same. Therefore, there is no risk of under-inflation.

3. The vehicle capacity weight listed on the tire placard is correct, and is the same for X6M model vehicles built for four or five occupants. Therefore, there is no risk of overloading.

4. The vehicle's Monroney label contains a listing of all options that have been equipped on the affected vehicles. The option regarding the rear seat for three occupants is noted on the Monroney label; therefore, an owner would have been notified at time of purchase of the vehicle that the rear seat is equipped to accommodate three occupants.

5. The vehicle Owner's Manual contains information pertaining to the vehicle's tires, tire pressure, and the vehicle capacity weight. Therefore, if owners check the Owner's Manual, correct information is available for their use.

6. BMW also offers Roadside Assistance™ and BMW Assist™ which are available 24 hours/day with representatives that are available to provide drivers with all of the available tires sizes and specifications for the affected vehicles.

7. BMW has received no customer complaints and are unaware of any accidents or injuries regarding this noncompliance of the affected vehicles.

BMW has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

BMW also expressed its belief that NHTSA has previously granted similar petitions.

In summation, BMW believes that the described noncompliance of its tire placards regarding seating capacity is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

Comments: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. *By mail addressed to:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

b. *By hand delivery to:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. *Electronically:* By logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to 1–202–493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

DATES: *Comment Closing Date:* July 25, 2012.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at CFR 1.50 and 501.8)

Issued on: June 18, 2012.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2012–15395 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0073; Notice 1]

Guizhou Tyre Corporation; Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: GTC North America, Inc., on behalf of Guizhou Tyre I/E Co. LTD (collectively referred to as ''GTC'') has determined that certain Samson and Advance brand ST trailer Tires, do not fully comply with paragraph S6.5 (j) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New pneumatic tires for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds) and motorcycles.* GTC has filed an appropriate report dated March 22, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), GTC submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GTC's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Equipment involved: Affected are approximately 4,291 size ST235/85R16/14 ply Samson and Advance brand ST Trailer Tires manufactured from December 4, 2011 through March 31, 2012.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 4,291 [1] tires that GTC no longer controlled at the time it determined that the noncompliance existed.

Noncompliance: GTC explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the tires incorrectly identifies the Load Range as ''F'' when in fact it should be ''G''.

Rule text: Paragraph S6.5(j) of FMVSS No. 119 requires in pertinent part:

S6.5 Tire markings. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less than 0.4mm (0.015 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of motorcycle tires and recreational, boat, baggage, and special trailer tires * * *

(j) The letter designating the tire load range.

Summary of GTC's Analysis and Arguments

GTC states that while the tire sidewall labeling incorrectly identifies the Load Range as ''F'' when in fact it should be identified as ''G'' it does not pose a safety issue because if a consumer followed the load range ''F'' designation they would actually fall below the actual recommended load carrying capacity. Since the tire load range designation ''F'' falls below the actual recommended load carrying capacity the tires will perform without incident causing no safety issue.

GTC also stated that all other required sidewall markings are present and correct.

GTC has additionally informed NHTSA that it has stopped production of the subject tires, is correcting the tire molds so that the subject noncompliance does not occur in future production, and has notified dealers to discontinue selling the tires.

In summation, GTC believes that the described noncompliance of its tires is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

Comments: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. Electronically: By logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to 1–202–493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment Closing Date: July 25, 2012.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: June 18, 2012.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2012–15396 Filed 6–22–12; 8:45 am]

BILLING CODE 4910–59–P

[1] Guizhou Tyre Corporation's (GTC) petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt GTC as a tire manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 4,291 affected tires. However, a decision on this petition will not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after GTC notified them that the subject noncompliance existed.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 290 (Sub-No. 5) (2012–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 2012 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2012 RCAF (Unadjusted) is 1.171. The third quarter 2012 RCAF (Adjusted) is 0.513. The third quarter 2012 RCAF–5 is 0.485. The Board noted an error in the first and second quarter 2012 Materials &

Supplies index component, which will be accounted for using the third and fourth quarter 2012 forecast error calculations.

DATES: *Effective Date:* July 1, 2012.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site, *http://www.stb.dot.gov*. Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

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

Decided: June 20, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–15407 Filed 6–22–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Pools and Associations—Annual Letter

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the ''Pools and Associations—Annual Letter.''

DATES: Written comments should be received on or before August 24, 2012.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Rose Miller, Manager, Surety Bond Branch, Room 632F, 3700 East West Highway, Hyattsville, MD 20782, (202) 874–6850.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

Title: Pools and Associations—Annual Letter.

OMB Number: 1510–0008.

Form Number: None.

Abstract: The information is collected for the determinations of an acceptable percentage for each pool and association to allow Treasury certified companies credit on their Schedule F for authorized ceded reinsurance in determining the companies' underwriting limitations.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 1 hour 30 minutes.

Estimated Total Annual Burden Hours: 150.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: June 18, 2012.

Patricia M. Greiner,

Assistant Commissioner, Management (CFO).

[FR Doc. 2012–15361 Filed 6–22–12; 8:45 am]

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Part II

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, et al.
Hazardous Materials: Incorporating Rail Special Permits Into the Hazardous Materials Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, 179, and 180

[Docket No. PHMSA–2010–0018 (HM–216B)]

RIN 2137–AE55

Hazardous Materials: Incorporating Rail Special Permits Into the Hazardous Materials Regulations

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

ACTION: Final rule.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration is amending the Hazardous Materials Regulations to incorporate provisions contained in certain widely used or longstanding rail special permits that have general applicability and established safety records. Special permits allow a company or an individual to package or ship a hazardous material in a manner that varies from the regulations provided an equivalent level of safety is maintained. Incorporating the special permits discussed in this rulemaking will provide users of the regulations with wider access to the regulatory flexibility offered in these special permits, eliminate the need for numerous renewal requests, reduce paperwork burdens, and facilitate commerce while maintaining an appropriate level of safety. This rulemaking will also respond to two petitions for rulemaking, P–1497, concerning the use of electronic shipping papers, and P–1567, concerning the removal of the Association of American Railroad's AAR–600 portable tank program for previously adopted standards that meet or exceed the AAR–600 requirements.

DATES: *Effective date:* July 25, 2012.

Voluntary compliance date: PHMSA is authorizing voluntary compliance beginning June 25, 2012.

Incorporation by reference date: The incorporation by reference of certain publications listed in this rule was previously approved by the Director of the Federal Register on October 1, 2003 and March 16, 2009.

FOR FURTHER INFORMATION CONTACT: Eileen Edmonson, Standards and Rulemaking Division, Office of Hazardous Materials Safety, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration (PHMSA), or Karl Alexy, Office of Safety Assurance and Compliance, (202) 493–6247, Federal Railroad Administration (FRA), 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Notice of Proposed Rulemaking

The Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA) issued a notice of proposed rulemaking (NPRM) on August 18, 2011 [76 FR 51324] under Docket No. PHMSA 2010–0018 (HM–216B) to amend the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to incorporate requirements based on seven existing special permits for transportation by railroad issued by PHMSA under 49 CFR Part 107, Subpart B (§§ 107.101 to 107.127). This NPRM was part of an ongoing review by PHMSA to identify widely used and longstanding special permits with established safety records for adoption into HMR. The numbers of the special permits considered for incorporation in the NPRM are DOT–SP: 7616, 9388, 11184, 12095, 12905, 14333, and 14622. PHMSA identified these special permits as implementing new technologies and operational techniques that achieve a safety level that corresponds to or exceeds the safety level required under the HMR. In addition, we also addressed two petitions for rulemaking in the NPRM: P–1497 and P–1567. P–1497 pertains to the use of electronic shipping papers; P–1567 pertains to the removal of the AAR–600 portable tank program for previously adopted standards that meet or exceed AAR–600 requirements.

Based on the aforementioned special permits and petitions for rulemaking, we subsequently proposed amendments to the HMR to:

(a) Establish an alternative tank car qualification program;

(b) Permit the electronic transmission of shipping paper information;

(c) Permit straight threads in the clean out and/or inspection port openings of a Department of Transportation (DOT) Specification 110A500W multi-unit tank car tank;

(d) Permit alternative start-to-discharge pressure requirements for certain DOT Specification 105J500W tank cars containing chlorine;

(e) Permit alternative pressure relief requirements for pressure relief devices for DOT Specification 105J300W tank cars containing certain flammable liquids;

(f) Permit certain DOT and Association of American Railroad (AAR) specification tank cars with stainless steel identification plates to have their specification and other required information stamped on the identification plate instead of the tank car head provided certain requirements are met;

(g) Permit liquefied anhydrous ammonia gas or ammonia solution to be measured by a metering device when loaded into a tank car as an alternative to measuring the cars by weight;

(h) Revise § 179.13(b) to require that rail tank cars with a gross weight that exceeds 263,000 but not 286,000 pounds containing poisonous-by-inhalation (PIH) materials must be approved for use by the FRA's Associate Administrator for Railroad Safety; and

(i) Eliminate use of the AAR 600 program concerning the FRA's approval of bulk packagings in container-on-flat-car (COFC) or trailer-on-flat-car (TOFC) service that is incorporated into § 174.63(c)(2).

B. Comments on the NPRM

The comment period for the NPRM closed on October 17, 2011. Thirteen entities provided comments in response to the NPRM. Most of the commenters support the proposals in the NPRM, while several commenters request modifications to the proposed regulations for clarity. Still others suggest certain proposals be eliminated altogether from consideration. PHMSA has summarized these comments in the ''Section-by-Section Review'' discussion of this rulemaking. Specifically, PHMSA received comments from the following:

1. Alltranstek LLC (Alltranstek)
2. American Railcar Leasing LLC (ARL)
3. Association of American Railroads (AAR)
4. The Chlorine Institute
5. CIT Group
6. Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)
7. Dangerous Goods Advisory Council (DGAC)

8. The Dow Chemical Company (Dow)
9. GATX Corporation (GATX)
10. International Vessel Operators Dangerous Goods Association (IVODGA)
11. Midland Rail Services, LLC (Midland)
12. Union Pacific Railroad (UPC)
13. Union Tank Car Company (UTC)

II. Amendments Adopted in Final Rule

The following is a summary of the amendments PHMSA is adopting in this final rule. This list does not include minor editorial changes.

- The reference to § 174.63 is removed from the AAR Manual of Standards and Recommended Practices M–1002 listing in § 171.7.
- Definitions for ''Electronic data interchange'' and ''Train consist'' are added to § 171.8.
- Requirements for electronic shipping papers, electronic data interchange (EDI) standards, and electronic signature certification for hazardous material rail shipments are added to §§ 172.201(a)(5), 172.202(b), 172.204(a)(3)(ii), and (d)(3).
- Requirements for verbal certification of shipping papers for rail hazardous materials shipments are added to § 172.204(a)(3)(i) and (d)(3).
- The emergency response telephone number requirements are revised to clarify that telephone numbers outside the United States (U.S.) must be accompanied by the international access code or the plus sign, country code, and city code, as appropriate, needed to complete the call.
- Section 172.604(a)(3)(ii) is revised to clarify that the emergency response telephone number must be entered on the shipping paper in the manner prescribed in § 172.604(b).
- Provisions to allow tank cars and multi-unit tank cars to be loaded with liquefied anhydrous ammonia gas or ammonia solution through the use of a metering device are added to § 173.314(e).
- Section 173.314(k)(2) is added to permit DOT 105J500W tank cars equipped with combination safety relief valves with a start-to-discharge pressure of 360 psi to be used as authorized packagings for inhalation hazard zone B Chlorine gas.
- Section 174.63(c)(2) is revised to remove the requirement for tank cars in container-on-flat-car (COFC) or trailer-on-flat-car (TOFC) service from complying with the AAR 600 program in the AAR Specification for Tank Cars, ''Specifications for the Acceptability of Tank Containers.''
- Section 179.13(b) is revised to specify FRA approval of tank cars carrying poisonous-by-inhalation materials with a gross weight on rail up to 286,000 pounds.
- Requirements to permit tank car information to be stamped on permanent identification plates placed on opposite ends of a tank car instead of stamped into the tank's head are added to §§ 179.24, 179.100–20, 179.200–24, 179.201–10, and 179.220–25.
- Requirements to permit straight threads to be used instead of tapered threads in the clean-out/inspection ports of DOT Specification 110A multi-unit tank car tanks are added to § 179.300–13.
- The applicability provisions for 49 CFR Part 180 are revised to include Part 174 in § 180.501(a).
- Section 180.501(b) is added to require tank car owners to develop written tank car qualification procedures required under § 179.7 for their tank car employees, and to require tank car facilities to incorporate an owner's qualification program in the facility's quality assurance program.
- New paragraph (d) is added to § 180.501 to require that documents must be made available upon request to credentialed FRA employees or authorized U.S. Department of Transportation employees.
- Definitions from the former Tank Car Qualification Program (TCQ–1) concerning tank car qualification and maintenance, some with revisions, are added to § 180.503.
- Paragraph § 180.507(b) is removed. This paragraph was added to the HMR in an earlier rulemaking to require tank cars authorized to transport cryogenic liquids under an exemption (DOT–E) issued before October 1, 1984, to remove the earlier exemption number, stamp the tank car with the appropriate Class DOT–113 specification, and mark the tank car with the applicable DOT–E number. PHMSA proposed in the NPRM to replace the DOT–E number marked on the tank with the applicable DOT–SP number. However, the FRA has determined most of the tank cars subject to this paragraph have been modified, that one special permit of this type may exist, and that the tank cars authorized under that special permit have already been marked with the current DOT–SP number. Therefore, FRA has determined the need for this section no longer exists.
- Section 180.509 is amended to add conditions and frequencies of inspections and tests for qualifying a tank car that were authorized under former TCQ–1. These provisions:
  - Require that reports of all inspections and tests be sent to the tank car owner, and for a coating or lining, to the coating or lining owner;
  - Permit the FRA Associate Administrator for Railroad Safety to declare a tank car in unsafe operating condition based on the existence of an objectively reasonable and articulable belief instead of a probable cause;
  - Simplify the ''Allowable Shell Thickness Reduction'' table for a tank car's service life thickness allowance;
  - Require the owner of a tank car coating or lining to ensure the adequacy and compatibility of the coating or lining for the material being offered for transport and to establish and maintain a record of service of the coating or lining and commodity combination, including an appropriate inspection interval that is not to exceed eight years, unless evidence or scientific analysis can be provided that supports a longer inspection interval;
  - Require tank car owners to ensure a tank car's service equipment is qualified at least once every 10 years; and
  - Clarifies that the Associate Administrator for Railroad Safety must approve alternative inspection and test procedures or intervals based on a damage-tolerance analysis or service reliability assessment.
- The introductory paragraph of § 180.511 is revised to require the representation of a qualified tank car's inspections and tests to be marked on the tank in conformance with § 180.515.
- Section 180.511(d) is revised to include a requirement that the safety system inspection must also show no indication of a defect that may reduce the reliability of tank car before its next inspection and test.
- Section 180.511(g) is revised to require a hydrostatic test for the inner tank of a DOT Class 115 specification tank car.
- Section 180.511(h) is added to establish acceptable results for inspection and test requirements for service equipment.
- Section 180.513 is revised to require that, in addition to having to comply with the AAR's Specifications for Tank Cars, a tank car facility making repairs, alterations, conversions, or modifications to a tank car must comply with the tank car owner's requirements, and must obtain the permission of the equipment owner before performing work that would affect the alteration, conversion, repair, or qualification of the owner's equipment. Also, after this work is performed, the tank's service equipment must successfully pass the leak test prescribed in § 180.509(j).
- The tank car marking requirements prescribed in § 180.515(a) are revised to

establish that dates displayed on a consolidated stencil take precedence over dates that are modified and not stenciled, pursuant to interval adjustments for service equipment, linings, and granted alternative inspection intervals.

- Section 180.515(b) is revised to specifically list converted DOT 105, 109, 112, 114, and 120 specification tank cars as being required to have new specification and conversion date markings.
- Section 180.515(c) is revised to state the installation date of a reclosing pressure relief device on a tank car is the test date the device is ''qualified,'' instead of ''pressure tested,'' within six months from the date it was installed and protected from deterioration.
- Section 180.517(a) establishes that the builder's signature on a tank car's certificate of construction and marking of the tank car with the tank's specification represent that all the appropriate inspections and tests were performed successfully and the tank is qualified for use.
- Section 180.517(b) is revised to require that the written report of a tank car's qualification inspections and tests must be provided in a common readable form to FRA upon request, and must include the tank car reporting mark and number, specification, name of the inspector, and the unique code (station stencil) identifying the facility.
- 49 CFR Part 180, Subpart D, is added to include materials the FRA has determined may, under certain conditions, corrode carbon steel tanks or service equipment at a rate that may reduce their reliability.

III. Section-by-Section Review

The following is a section-by-section review of the amendments adopted in this final rule.

Part 171

Section 171.7

Section 171.7 addresses industry standards and other reference materials that are incorporated by reference into the HMR. In the NPRM, we proposed to remove the reference to § 174.63 under the AAR Manual of Standards and Recommended Practices, M–1002, (December, 2000) because we proposed to discontinue use of the AAR 600 program of the AAR's Specification for Tank Cars, entitled ''Specifications for the Acceptability of Tank Containers,'' in § 174.63(c)(2). PHMSA received no comments on the specific proposed language change to this section. Therefore, in this final rule, this language is being adopted as proposed in the NPRM.

It should be noted that several commenters object to PHMSA maintaining this edition in the HMR, stating that many of these standards are not applicable to the material being regulated or are obsolete compared to the AAR's 2007 edition of this publication. Several commenters request that PHMSA revise the HMR in this final rule to permit current and future editions of AAR M–1002 to be incorporated into the HMR when they are published.

Before incorporating any organization's technical guidance into the HMR as a material incorporated by reference, PHMSA and the appropriate modal agency staff conduct an extensive technical review of the document to determine if the standards it establishes are safe and in conformance with the HMR. In addition, in such instances, federal agencies must comply with the other requirements concerning incorporating materials by reference, such as soliciting public comment on their incorporation as required under the Administrative Procedure Act, and completing procedures for their incorporation issued by the **Federal Register**. Therefore, PHMSA is denying this request. However, we will consider the 2007 or later edition of the AAR's M–1002 for possible incorporation into the HMR in a future rulemaking.

Section 171.8

Section 171.8 provides definitions and abbreviations used throughout the HMR. In the NPRM, we proposed to add a definition to indicate that a ''train consist'' means a written record of the contents and location of each rail car in a train. Our intention was to provide a definition for a provision proposed in § 172.204(a)(3)(i) to permit a carrier to record acknowledgment on a shipping paper that will accompany a rail hazardous material shipment or other document, like a train consist, that a correct, complete shipping description was received verbally over the telephone, and is in conformance with § 174.24. Commenters state that although a train consist is used to assist rail carriers, it is not an official shipping paper document, and that § 174.24 refers only to shipping papers. We agree. Therefore, we are adopting this proposed definition in § 171.8, but are not adding this phrase to § 172.204(a)(3)(i).

Part 172

Section 172.201

Section 172.201 specifies requirements for the preparation and retention of shipping papers used to describe hazardous materials in transportation. In the NPRM, we proposed minor editorial changes to clarify § 172.201(a)(2), and proposed to revise § 172.201(a)(5) to add provisions prescribed in DOT–SP 7616 for the acceptance, availability, forwarding, verification, and retention of electronic shipping paper information transmitted by EDI for the development of shipping papers used to transport hazardous materials by railcar. We also proposed requirements concerning the generation of residue shipping papers by carriers.

Most of the commenters support amending the HMR to permit EDI transmission of shipping paper information. The DGAC states that, while EDI is generally well-understood without a definition, if retained in the final rule, PHMSA should move the last two sentences of proposed § 172.201(a)(5) into a definition of EDI and place it under general definitions prescribed in § 171.8 so that EDI's use is clearly not limited to rail transportation. The two sentences in the NPRM state:

> For the purpose of this section electronic data interchange (EDI) means the computer-to-computer exchange of business data in standard formats. In EDI, information is organized according to a specific format (electronic transmission protocol) agreed upon by the sender and receiver of this information, and transmitted through a computer transaction that requires no human intervention or retyping at either end of the transaction.

PHMSA and FRA agree that this commenter's remarks have merit. We also believe referring the regulated public to the existence of this new definition in § 171.8 instead of § 172.201(a)(5) will assist them with correctly applying this requirement. Therefore, PHMSA will eliminate the phrase ''For the purposes of this section'' from the first sentence of § 172.201(a)(5), remove the last two sentences of that section and place them in a new definition for EDI under § 171.8, and add regulatory text to § 172.201(a)(5) to refer the user to the new location of the EDI definition.

In the NPRM, PHMSA proposed to require under § 172.201(a)(5)(iii) that a carrier that generates a shipping paper for tank cars containing residue using information from the previous loaded movement of a hazard materials packaging must ensure the description of the material that accompanies the shipment complies with the offerer's request. The DGAC assumes in all cases the carrier would have to comply with the offerer's instructions regardless of how the information is transmitted and recommends PHMSA delete this

provision because it is unnecessary. PHMSA and FRA disagree with the commenter that in all cases the carrier will comply with the offerer's instructions when generating a residue shipping paper based on a previous loaded hazardous materials package. PHMSA and FRA believe, instead, that the implementation of this provision will make carriers aware of their responsibilities to properly describe and class a residue hazardous material in transportation. Therefore, PHMSA is denying this request.

In the NPRM, PHMSA proposed to require under § 172.201(a)(5)(v) that an electronic shipping paper issued for the rail transport of hazardous materials under § 172.201(a)(5) be retained for the same amount of time and in the same manner required for other hazardous materials shipping papers as prescribed in § 172.201(e). The DGAC requests the removal of the shipping paper retention proposal for EDI shipping papers under § 172.201(a)(5)(v) because shipping papers issued under § 172.201 must be retained in conformance with § 172.201(e). The DGAC also notes that § 172.201(e) currently requires the shipper to retain a copy of the shipping paper from the time the shipment is offered until at least two years after issuance, and § 174.24 requires rail carriers to retain the shipping paper for at least one year. PHMSA and FRA agree with the commenter that shipping papers issued under § 172.201 are subject to the shipping paper retention requirements prescribed in § 172.201(e); therefore, PHMSA will remove § 172.201(a)(5)(v).

In the NPRM, PHMSA proposed to revise § 172.201(a)(5)(i) to require that electronic shipping paper information provided under § 172.201(a)(5) must be made available to the shipper and carrier at all times the material is in transportation, and that the carrier must have and maintain a printed copy of this information until delivery of the hazardous material is complete. Several commenters opposed the proposed requirement in § 172.201(a)(5)(i). The AAR suggested the requirement be changed to require that the shipping paper information ''be available to the shipper and carrier at all times during transport'' and a printed copy accompany the shipment until delivery is complete. The IVOGDA requests that PHMSA permit immediate access to hazard communication information for all those involved in transportation, including emergency responders, by providing existing EDI transmission methods to these individuals and eliminate the requirement that paper documents be transmitted with these shipments in keeping with the Paperwork Elimination Act, which allows and encourages:

> the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures. 44 U.S.C. 3504(a)(1)(B)(vi).

The IVOGDA interprets the Act as stating electronic signatures ''are required to be compatible with standards that are generally used in commerce,'' industry, and by State governments. The IVOGDA also interprets the Act as stating electronic signatures ''may not inappropriately favoring [sic] one industry or technology'' over another and questions if the NPRM's application of this provision to rail transport only complies with the Act. The DGAC and COSTHA also support permitting the use of EDI in all modes of transport. In addition, the IVOGDA states the Act provides that electronic records, signatures, or other forms of electronic authentication ''shall not be denied legal effect, validity, or enforceability when such records are in electronic form.'' To comply with the Act, the IVOGDA requests PHMSA: Remove the word ''rail'' in §§ 172.201(a)(5), 172.202(b), 172.204(a), (a)(3), and (d)(3); revise the proposed language in § 172.205(a)(5)(i) that proposes to require that the carrier have and maintain a printed copy of the shipping paper ''until delivery of the hazardous material on the shipping paper is complete;'' to adopt a provision to require the carrier to make a copy of the shipping document(s) available upon request; and allow those complying with ICAO Technical Instruction and IMDG Code EDI regulations to produce these documents upon request. Several commenters note that the UN Model Regulations, ICAO Technical Instructions, and International Maritime Organization Dangerous Goods Code, and UN ADR all recognize the use of EDI-generated shipping papers that are issued and retained electronically only as an acceptable alternative to paper documents. IVOGDA also notes the encrypted coding of an EDI shipping paper adds an additional layer of security that helps to ''conceal the presence of high value cargoes that might be the target of piracy or hijacking during transport.'' IVOGDA further notes permitting the use of EDI shipping papers in an electronic format only promotes environmental conservation by supporting a paperless operation, complies with the provisions of the Government Paperwork Elimination Act (44 U.S.C. 3504), and helps companies distribute their newest products rapidly and maintain inventory throughout the world. Union Pacific states it maintains its EDI shipping paper electronically in a manner that can be printed as received or in a format that conforms to the requirements in the HMR, and recommends the following wording be added to § 172.201(a)(5)(i):

> When the information applicable to the consignment is provided under this requirement, the information must be available to the shipper and carrier at all times during transport. When a paper document is produced, the data must be presented as required by this subpart.

In addition, the DGAC notes that DOT–SP 7616 permits these documents to be retained electronically by the carrier but the NPRM proposed that a written copy of the shipping paper must accompany the shipment. The DGAC requests that if electronic storage of the EDI shipping paper be permitted by the HMR, if the format of the electronic data is agreed [to] by both parties, and the data can be used to produce a printed shipping paper document, no further requirement concerning the format of the computer data for EDI shipping papers is needed.

DOT–SP 7616 authorizes a rail freight carrier to accept hazardous materials shipping paper information by voice communication through the telephone or through EDI for use in the creation of a physical shipping paper that accompanies the shipment and that is retained by the shipper and carrier for one year from the date of shipment. DOT–SP 7616 also authorizes a variance in the shipping paper certification requirement for EDI shipping papers that allows for an abbreviated certification statement or the completion of a field on a form to represent the completed certification. DOT–SP 7616 does not include an exception that permits a rail hazardous material shipment to be transported without a printed copy of the applicable shipping paper. Further, DOT–SP 7616 requires rail shippers of hazardous materials that use EDI shipping papers to provide the rail staff with a copy of the shipping papers, which it states can include waybills, train consists, or other similar documents (see DOT–SP 7616, paragraph 8(d)). PHMSA and FRA are aware of no adverse consequences or incidents have been reported concerning hazardous materials shipments using shipping papers generated with telephonic or EDI transmitted information.

One purpose of a printed shipping paper for hazardous materials

shipments is to provide emergency responders with timely and accurate information needed to respond to a possible hazardous materials release. PHMSA and FRA are aware that emergency responders do not have devices that allow them to access EDI shipping papers that are electronically retained. However, we are aware that emergency responders typically acquire this information from shipping papers located in the locomotive or from train crew consists. If these sources are not available, emergency responders call the railroad and request the train's consist. Emergency responders typically have had timely access to emergency response information using one of these methods. Historically, PHMSA and FRA have found delays in retrieving shipping paper information at the site of a rail hazardous materials incident can contribute to increased risks associated with the management and containment of the hazards associated with these materials. Further, rail incidents often occur in remote locations and/or on difficult terrain, which may further delay the arrival of emergency responders to an incident site. A physical copy of a shipping paper at the scene of an incident helps emergency responders respond quickly and accurately when trying to mitigate the effects of a hazardous materials release. As a result, PHMSA and FRA disagree with the position presented by the IVOGDA that a printed copy of the information on an electronic shipping paper does not need to accompany a rail hazardous materials shipment, and PHMSA is denying this request. However, PHMSA will continue to investigate this issue, and may address it in a future rulemaking.

Several commenters request the proposed requirements for EDI be revised to make them harmonious with international regulations for this activity. Specifically, the IVOGDA, DGAC, and COSTHA request that PHMSA allow the use of EDI under the HMR to promote the accurate and timely transmission of these documents and to reduce the difficulties and delays that can occur in all modes of transport, both international and domestic, when shipping documents are not harmonious. While it is always PHMSA's goal to harmonize the HMR whenever safely possible with international requirements, we did not propose this revision in the NPRM. Therefore, it is outside the scope of this rulemaking, but we may consider it in a future rulemaking.

The IVOGDA also requests PHMSA provide regulations that specify the transfer container responsibilities from one carrier to another within the same mode of transport or between modes. In addition, the IVOGDA notes Section 5.4 of the United Nations Recommendations for the Transport of Dangerous Goods (UN Recommendations) includes in all its references to dangerous goods transport documents a provision to allow information by the use of electronic data processing and EDI techniques, and that similar provisions are located in Chapter 4 of the International Civil Aviation Organization (ICAO) Technical Instructions for the Transport of Dangerous Goods (Technical Instructions), and Chapter 5.4 of the International Maritime Dangerous Goods Code (IMDG Code). PHMSA did not propose in the NPRM to specify the transfer container responsibilities between carriers within the same or different modes of transport; therefore, it is outside of the scope of this rulemaking. However, PHMSA may consider this issue in a future rulemaking.

Several commenters oppose the requirement proposed in § 172.201(a)(5)(ii) that an EDI shipping paper contain a full or abbreviated certification. These commenters state the special permit for these transmissions permitted the name of the principal person, etc., for the shipment to appear in a field designed to represent the certification as a method that worked well and no purpose would be served by requiring a printed version of the certification. A few commenters request that PHMSA add a provision to § 172.204 to clarify that an authorized signature in a designated field on the form is sufficient to denote a completed shipper's certification. The DGAC also questions the abbreviated representation of a shipper's certification may not be appropriate for some hazardous materials packages, such as portable tanks that are interlined to other transport modes. This commenter requests the abbreviated certification discussed earlier be limited to rail transport only.

One of the basic HMR requirements for a shipping paper is that the person taking responsibility for the shipment agrees by signing the certification statement that the shipment has been prepared properly for transportation. PHMSA is concerned designating a blank signature block on a shipping paper as representing the shipper's certification without the shipper's certification statement, and deeming the shipping paper prepared in this manner as certified when the block is filled in with the name of the shipper or their representative, may not make shipper fully aware of the responsibilities they are agreeing to under this requirement. Omitting this statement may also make it unclear to the emergency responder or enforcement official who is taking responsibility for the compliance of the shipment with the HMR. However, PHMSA and FRA are also aware that under the special permit shippers were permitted to use this method with no adverse consequences or incidents reported. Therefore, we agree with the position of the commenters and will revise the regulatory text to require that only for EDI shipping papers the shipper's certification may be represented by completing a specific field for this purpose in the manner prescribed in DOT–SP 7616.

In § 172.201(a)(5) of the NPRM, PHMSA and FRA also proposed to add language to regulate the transmission of shipping papers by facsimile. The DGAC and Union Pacific request that since the provision for transporting these documents electronically by facsimile is a common occurrence and was not provided for in the special permit, this provision should be removed from the amended requirements. PHMSA and FRA disagree with the commenters' request to eliminate the provision to allow shipping papers to be transmitted by facsimile into the HMR because this was not specifically mentioned in the special permit being incorporated. As the commenters state, sending shipping papers by facsimile is a common practice that is currently not provided for under the HMR, but this type of transaction does qualify as another form of electronic transmission of a shipping paper. PHMSA and FRA believe establishing minimal HMR requirements for shipping paper facsimile transmissions based on current industry practices will have little effect on the regulated public while clarifying that transmission of shipping papers by this method is a regulated activity. In addition, this requirement safeguards this transaction by providing modest guidance how these materials are to be processed. Therefore, PHMSA is incorporating provisions under §§ 172.201(a)(5). PHMSA is also incorporating provisions to transmit shipping papers by facsimile under §§ 172.202, 172.204 and 172.604 of the HMR.

Section 172.202

Section 172.202 specifies requirements for the description of hazardous materials on shipping papers. In the NPRM, we proposed to add a third sentence to paragraph (b) to specify that shipping descriptions for

hazardous materials offered or intended for transportation by rail that contain all of the information required in subpart C and that are formatted and ordered in accordance with recognized electronic data interchange standards and, to the extent possible, in the order and manner required by this subpart are deemed to be in compliance with paragraph (b) of this section. Commenters did not provide remarks on this proposed requirement. Therefore, PHMSA is adopting this language as proposed.

Section 172.204

Section 172.204 specifies requirements for a hazardous material shipper's certification on a shipping paper. In the NPRM, PHMSA proposed to revise § 172.204(a), (a)(3), and (d)(3) to incorporate provisions currently authorized under DOT–SP 7616, and to permit the shipper's certification for rail hazardous materials shipments to be transmitted verbally by telephone or electronically by computer, as requested by Petition No. P–14333.

As discussed earlier in this final rule under section-by-section heading ''Section 171.8,'' PHMSA and FRA proposed in the NPRM to require the verbal acknowledgement of the receipt of shipping paper information by telephone to be recorded on the shipping document or in a separate record, such as a train consist. Union Pacific requests proposed § 172.204(a): (1) Be revised to add the words telephonically or electronically to clarify the method in which these documents will be received, and (2) change ''train consist'' to ''waybill'' in proposed § 172.204(a)(3)(i) because the waybill is the singular record of a hazardous material shipment for the duration of the shipment and the shipper's certification is never placed on the train list. Some other commenters also request that PHMSA replace the wording ''train consist'' prescribed in § 172.204(a)(3)(i) with ''waybill'' because waybills, and not train consists, are the actual shipping document. PHMSA and FRA acknowledge that verbal communication of a shipper's certification can be received either by telephone or through a computer using software designed to allow it to operate like a telephone. PHMSA also agrees with commenters that adding wording that explains how the shipping paper certification can be received either verbally by telephone or electronically may provide clarity for users of these regulations, and promote safety. PHMSA and FRA agree with these commenters that this final rule should not require the shipper's certification statement on a train consist, but also believe the definition of a ''train consist'' is useful. Therefore, as stated earlier in this preamble, PHMSA will replace the word ''train consist'' with ''waybill'' in § 172.204(a)(3)(i), and will also move the proposed definition of ''train consist'' from § 171.8 to § 180.503 of the HMR.

In § 172.204(a)(3)(i) of the NPRM, PHMSA proposed to incorporate regulatory text that would permit shipping paper information to be received via oral communication over the telephone. Several commenters support inclusion of regulations that would permit shipping paper information to be communicated by telephone or EDI. The Association of American Railroads (AAR) states transmitting shipping paper information by telephone is necessary when electronic systems do not work, although it acknowledges its members do not routinely rely on this method. Based on this experience, the AAR states verbal transmission of this information is a necessary option to provide rail shippers with information that will support efficient transportation. The AAR also states it is not aware ''of instances where safety has been undermined through the verbal transmission of shipping papers.'' Some commenters object to this proposal. These commenters state they believe errors could occur when recording shipping paper information orally through use of the telephone, the information provided by telephone cannot be verified, errors that could occur during this recording process could compromise the integrity of the hazardous materials information, and these, in turn, could compromise safety. These commenters also state the verbal transmission method does not create a sufficient record of the transaction. Others thought communicating this information by telephone is not necessary. COSTHA thought, as an alternative to verbal communication of shipping paper information, this rulemaking action should incorporate EDI transmission of shipping paper information for all modes of transport.

PHMSA and FRA are aware that electronic systems for conveying transport information are used predominantly in the hazardous materials industry but agree with commenters that there are times when electronic systems do not work correctly (e.g., a software malfunction or viral contamination) or do not work at all (e.g., during an electrical outage or weather emergency). Although these instances may be rare, when they occur back-up methods must be permitted to ensure safety. While the method of conveying this information verbally by telephone may create a greater opportunity for error than a properly working electronic form of transmission, historically, this method has proven to be effective because it has occurred without notable incident or error. In fact, PHMSA and FRA are aware that this method of transmitting shipping paper information has occurred without appreciable incident for decades. Therefore, PHMSA is denying the commenters' request to disallow the verbal transmission of shipping paper information by telephone and will incorporate these requirements as proposed in the NPRM.

Union Pacific also requests PHMSA delete proposed § 172.204(a)(3)(ii) and replace it with:

> *Electronic certification.* When transmitted electronically, by entering the name of the principal person, partner, officer, or employee of the offeror or his agent in a specific EDI field defined for that purpose.

Union Pacific states completing a field with the appropriate representative information will allow ''electronic verification that the shipment is certified,'' and adding abbreviated shipper's certification boiler language ''does not add value to the EDI message * * * and does not readily lend itself to verification in EDI processing.'' This commenter also requests PHMSA change the word ''may'' to ''must'' under proposed § 172.204(d)(3) to clarify that one of the individuals listed in that paragraph must certify the shipment. The HMR requires each shipper to sign a shipper's certification statement to attest that a hazardous materials shipping paper has been properly prepared in conformance with the HMR.

PHMSA and FRA agree with the commenter that requiring a field on an EDI transmitted shipping paper to represent a shipper's certification statement is more appropriate than requiring abbreviated shipper's certification language be added to a field on an EDI shipping paper. PHMSA and FRA also acknowledge that using this method of certification will harmonize the HMR's EDI requirements with how the shipper's certification is achieved for EDI shipping papers issued under the UN Recommendations, ICAO Technical Instructions, and IMDG Code. However, PHMSA and FRA believe the language in § 172.204(a)(3)(ii) should be revised to emphasize that by completing the signature field on an EDI document, the shipper is certifying that the document complies with the certification requirements prescribed in § 172.204(a). Therefore, PHMSA will

revise this section to emphasize that signing an EDI shipping paper is, in effect, also signing the shipper's certification statement.

The DGAC notes that the list of individuals who may sign the abbreviated EDI shipper's certification proposed in §§ 172.204(a)(3)(ii) and 172.204(d)(3) differs slightly from the list in existing § 172.204(d)(1) and requests for consistency that the list in § 172.204(d)(1) be used in the other two sections. PHMSA agrees with the commenters and, in this final rule, will make the lists in these three sections consistent.

Section 172.604

Section 172.604 specifies requirements for an emergency response telephone number. To address incomplete international phone numbers PHMSA is encountering on shipping paper documents, in the NPRM, we proposed to revise the introductory text in paragraph (a) to specify that, for telephone numbers outside of the U.S., sufficient information must be provided to complete the call. In its comments, the DGAC notes that PHMSA did not include a preamble discussion of its proposal to amend § 172.604(a), and states it would be helpful to further clarify that for numbers outside of the U.S., the complete number required is the number needed to compete the call within the U.S. The DGAC also states that this provision is already indicated in U.S. Variation 15 of the ICAO Technical Instructions. PHMSA added this provision to address incomplete international phone numbers it is encountering on shipping paper documents. PHMSA agrees with the commenter and will make this revision in this final rule.

In the NPRM, we also proposed to revise paragraph (a)(3)(ii) of § 172.604 to specifically require that the emergency response telephone number must be entered on a shipping paper in the manner prescribed in paragraph (b) of this section. Commenters did not provide remarks on this proposed requirement. Therefore, PHMSA is adopting this language as proposed.

Part 173

Section 173.314

Metering Device

Section 173.314 specifies the requirements for tank cars and multi-unit tank car tanks that transport compressed gases. In the NPRM, we errantly proposed to add § 173.314(e)(2) to permit any hazardous material to be loaded into a tank car through use of a metering device. The metering device technology is currently authorized under Special Permit DOT–SP 9388 for loading only ''UN 1005, Ammonia, anhydrous, 2.2 (non-flammable gas),'' or ammonia solution. Therefore, PHMSA is correcting the provisions in § 173.314(e)(2) concerning the use of a metering device for loading tank cars and multi-unit tank cars to apply to anhydrous ammonia or ammonia solution only.

PHMSA and FRA also proposed in the NPRM to require under § 173.314(e)(2)(i)(B)(4) that materials loaded into a tank car using a metering device must be visually inspected for any signs of damage for accessories inside the loading dome and under § 173.314(e)(2)(i)(D), after sitting loaded and undisturbed for 10 minutes, this same tank car must be given a final check for leaks prior to closing the dome cover and properly inserting the dome pin. Midland Rail Services, LLC, (Midland) says the wording ''loading dome'' and ''dome cover'' are not consistent with the terminology used in the rail and tank car industry. This commenter states the appropriate wording is ''protective housing'' and ''protective housing cover,'' respectively. This commenter also states the word ''accessories'' refers to devices listed in § 179.100–13, which are called ''service equipment'' under § 180.509(c)(3)(i), and requests PHMSA revise § 173.314(e)(2)(i)(B)(4) to state ''* * * service equipment inside the protective housing,'' and § 173.314(e)(2)(i)(D) to state ''* * * check for leaks must be conducted prior to closing protective housing cover * * * protective housing cover pin.'' PHMSA and FRA agree with the commenter. PHMSA will revise these sections, but to accommodate all the closure devices possible on a tank car, PHMSA is simplifying the regulatory text in proposed § 173.314(e)(2)(i)(D) to make it more general. Also, as discussed later in this preamble, PHMSA deleted § 173.314(e)(2)(i)(A) in response to a commenters request. Therefore, in this final rule § 173.314(e)(2)(i)(B) and (e)(2)(i)(D) are renumbered § 173.314(e)(2)(i)(A) and (e)(2)(i)(C), respectively.

In § 173.314(e)(2)(i) of the NPRM, PHMSA and FRA propose to permit DOT specification tank cars in commerce transportation that contain anhydrous ammonia liquefied gas or ammonia solution measured by a metering device when loaded into the tank. AllTranstek objected to several provisions concerning this proposal that we have discussed in the following paragraphs.

Personal Protective Equipment

In the NPRM, PHMSA proposed to require under § 173.314(e)(2)(i)(A) that employees loading and unloading ammonia liquefied gas or ammonia solution measured with a metering device wear personal protective equipment (PPE) designed to protect them from the dangers associated with these materials. The NPRM also proposed that the PPE used must comply with the Department of Labor's Occupational Safety and Health Administration, and the state and local laws where either of these tasks are being performed. AllTranstek requests PHMSA remove the language requiring PPE for employees performing this activity, stating that this equipment is regulated by the Department of Labor's Occupational Safety and Health Administration (OSHA). For improved safety, PHMSA has historically required the use of PPE throughout the HMR for those hazardous materials that pose a greater risk of damage to the employee or environment if released. However, PHMSA recognizes the authority of OSHA regulations concerning the management and use of PPE in the workplace and will, therefore, make this change by deleting § 173.314(e)(2)(i)(A) and renumbering in consecutive order the remaining paragraphs in § 173.314(e)(2)(i).

Pre-Trip Inspections

AllTranstek requests PHMSA remove language proposed in § 173.314(e)(2)(i)(B) requiring the undercarriage assembly of the tank to be inspected because this is a function of qualified and designated railroad employees and repair shops regulated under the FRA's Freight Car Safety Standards (49 CFR Part 215) and would require plant operators to obtain additional training on mechanical functions and condemning limits of operational railroad stock.

The FRA agrees with the commenter that § 215.13 is a FRA requirement that prescribes pre-departure inspections for freight cars before they are placed in a train and agrees that revising § 173.314(e)(2)(i)(B) to add this ''would require plant operators to obtain additional training on mechanical functions and condemning limits of operational stock.'' Section 215.13(c) permits a train crew member who is not an inspector designated under § 215.11 to conduct an inspection of ''imminently hazardous conditions'' listed in 49 CFR Part 215, Appendix D, ''that are likely to cause an accident or casualty before the train arrives at its destination.'' This section also states

''these conditions are readily discoverable by a train crew member in the course of a customary inspection'' of a tank car, a task that a train crew is normally trained to perform on a tank car after loading and before it is offered for transportation. Therefore, PHMSA will make this change by replacing all of proposed § 173.314(e)(2)(i)(B), which listed undercarriage and several other inspection requirements, with a more general statement to require that tank cars offered for transportation must comply with applicable government safety regulations, and, as discussed earlier in this preamble, renumber this section as § 173.314(e)(2)(i)(A).

AllTranstek also requests PHMSA remove proposed language from § 173.314(e)(2)(i)(B) concerning signage, setting brakes and wheel blocks, leak testing, and inspecting hoses, connections, valves, and accessories because these items are currently regulated in § 173.31(d) and (g), as part of the steps the HMR requires for examining a tank car before shipping.

The HMR require shippers to inspect a tank car prior to offering it for transportation (see § 173.31(d)) and that the tank car must not be offered for transportation if a nonconforming condition is identified unless a one-time approval is obtained (see § 174.50). The HMR also contains additional requirements for transloading tank cars under § 174.67. PHMSA has historically referenced § 173.31 in other sections of the HMR to promote safety. However, as stated earlier in this preamble, we agree with the commenter that the requirements proposed for § 173.314(e)(2)(i)(B) are not needed because they are covered under other federal regulations. Therefore, PHMSA will make this change to the regulatory text where it now appears in as § 173.314(e)(2)(i)(A).

In addition, AllTranstek opposes language proposed in § 173.314(e)(2)(i)(C) to record defects and certify inspection and completion of loading and unloading procedures because offerers cannot offer defective packages into transportation and operators must follow written operating procedures under OSHA's process safety management standards prescribed in 29 CFR 1910.119(f).

PHMSA and FRA agree that shippers must inspect a tank car prior to offering it for transportation and that the tank car must not be offered for transportation if a nonconforming condition is identified unless a one-time approval is obtained. However, we believe requiring shippers to record defects and certify inspection and completion of their loading procedures is appropriate to track defects in their tank cars so they can identify defect or damage trends and make needed adjustments to equipment specification or maintenance procedures to eliminate them. Also, certifying the inspection and loading and unloading procedures for metered loads is important for determining the cause of non-accidental releases. Therefore, PHMSA is denying this request. However, due to the renumbering of the paragraphs discussed earlier in this preamble, the language that appeared in proposed as § 173.314(e)(2)(i)(C) now appears in § 173.314(e)(2)(i)(B).

Because of the increased accuracy and reliability of flow meter technology in the magnetic gauging device, AllTranstek requests that PHMSA remove the proposed requirement to measure one out of every 10 tank cars loaded with a magnetic gauging device to verify the load amount since this is also proposed in the NPRM under § 173.314(e)(2)(i) and (e)(2)(ii). AllTranstek also requests that PHMSA consider removing recordkeeping language from liquefied gases delivered through by meter because the HMR does not require this type of elaborate recordkeeping for any other hazardous material loaded into a packaging.

Although PHMSA and FRA agree with the commenter that flow meters are becoming increasingly accurate, we still believe an alternative form of measurement is necessary to confirm the safety of this type of loading operation for anhydrous ammonia or ammonia solution. Further, the NPRM proposed this requirement in § 173.314(e)(2)(ii) only. Therefore, PHMSA is denying this request.

Water Capacity Marking

In the NPRM, PHMSA and FRA proposed to require tank car markings to be stamped on tank car identification plates instead of the tank car head in several sections of the HMR provided certain requirements are met. Midland requests PHMSA revise § 173.314(e)(2)(iii)(H) to state ''Water capacity of tank in pounds'' instead of proposed ''Water capacity of tank car (pounds)'' for uniformity with industry and 49 CFR language. Midland also states current § 179.22 and AAR M–1002, Appendix C, do not require a pressure tank car to be marked and/or stenciled with the water capacity of the tank in pounds. This commenter states PHMSA removed stenciling and stamping from the HMR, formally prescribed in §§ 179.100–21(b) and 179.100–20, several years ago when it replaced outage and filling limits for tank cars based upon ''maximum permitted filling densities,'' formally under § 173.314(c), with ''outage and filling limits'' based on the tank's volumetric capacity, currently prescribed in §§ 173.314(c) and 173.24b(1), and not its water weight capacity. Further, Midland states the tank identification plate prescribed in paragraph 4.0 of AAR M–1002, Appendix C, does not require showing the water weight capacity of a tank car.

The following five compressed gases are loaded into a tank car based on allowable filling densities:

UN 1017, Chlorine, 2.3 (poisonous gas), 5.1 (oxidizer), 8 (corrosive)
UN 1053, Hydrogen sulfide, 2.3, 2.1 (flammable gas)
UN 1069, Nitrosyl chloride, 2.3, 8
UN 1079, Sulfur dioxide, 2.3, 8
UN 2191, Sulfuryl fluoride, 2.3

The other compressed gases are loaded to a filling limit. ''Maximum permitted filling density'' is a subset of the term ''outage and filling limits,'' which is prescribed in § 173.24a(d) for non-bulk packages and in § 173.24b(a) for bulk packages. Further, the HMR require the stamping or stenciling of a tank car's water capacity in pounds under §§ 179.201–10(a) and 179.400–25(c), and as criteria for tank car inspections and reports in the ''Record of Hydrostatic Test Table'' under § 179.500–18(c). PHMSA did not propose under § 173.314(e)(2)(iii)(H) of the NPRM to replace the proposed term ''Water capacity of tank car (pounds)'' with ''Water capacity of tank in pounds,'' but agree with the commenter that the use of these two terms may be confusing to some HMR users. PHMSA and FRA also agree with the commenter that the term ''water capacity of tank in pounds'' is more consistent with AAR M–1002 than a tank car's water weight capacity proposed in § 173.314(e)(2)(iii)(H). Therefore, for clarity and consistency PHMSA is revising the term ''Water capacity of tank car in pounds'' to read ''Water capacity of tank in pounds'' in § 173.314(e)(2)(iii)(H). We may review making this change in additional sections in a future rulemaking. In addition, PHMSA recognizes that each facility may have a different specific gravity at a reference temperature. Therefore, PHMSA has revised § 173.314(e)(2)(iii)(J) to remove ''(@ 105 °F–0.5796 and @ 115 °F–0.5706)'' and replace it with the phrase ''at the reference temperature.'' PHMSA further recognizes that the HMR ensures compatibility with international transportation standards by expressing most units of measure in International System or metric units (see § 171.10);

therefore, PHMSA has revised § 173.314(e)(2)(iii) to include metric units of measure.

Part 174

Section 174.63

Section 174.63 specifies requirements for the portable tanks, IM portable tanks, intermediate bulk containers (IBCs), Large packagings, cargo tanks, and multi-unit tank car tanks. In the NPRM, we proposed to discontinue the AAR–600 requirement in the HMR for portable tanks because PHMSA adopted standards for portable tanks in container-on-flat-car (COFC) or trailer-on-flat-car (TOFC) service under other sections of the HMR. The Gold Tank Inspection Service, Inc., petitioned PHMSA (P–1567) to discontinue the AAR–600 program because, in addition to the new HMR standards, the HMR no longer permits portable tanks to be built to the AAR 600 standard unless they are DOT Specification 60 and International Standard 1496–3 portable tanks. Further, after January 1, 2010 (see § 171.14(d); Docket No. RSPA–2000–7702 (HM–215D), 66 FR 33316; and amended, 67 FR 15736), the HMR requires all portable tanks to meet or exceed AAR 600 requirements, and the AAR 600 does not cover portable tank requirements. Commenters did not provide remarks on this proposed requirement. However, PHMSA realizes in attempting to eliminate the AAR 600 standard, it erroneously proposed to remove the entire requirement under § 174.63(c)(2). Our intention was to state that a tank and flatcar in COFC or TOFC service must conform to the applicable requirements of the HMR concerning their specification to ensure their acceptable performance. Therefore, in this final rule, PHMSA is revising this language to reflect its original intent.

Part 179

Section 179.13

Section 179.13 specifies tank car capacity and gross weight limitations. In the NPRM, PHMSA proposed to revise § 179.13(b) to correct an error that occurred in a final rule published on May 14, 2010 (75 FR 27205), issued under Docket No. PHMSA–2009–0289 (HM–233A). In that rule, PHMSA erroneously omitted a provision to require FRA approval of rail tank cars with a gross weight on rail that exceeds 263,000 pounds but not 286,000 pounds before they may be used to transport poisonous-by-inhalation (PIH) hazardous materials. PHMSA proposed to revise this section to add the FRA approval statement. We received several commenters expressing support for this correction, without any negative comments. Therefore, we are adopting this change as proposed in this NPRM.

In addition, in its comments Dow states that it operates under DOT–SP 12858 and DOT–SP 14173 which allow the operation of tank cars carrying Ethylene oxide at a gross rail load of 286,000 pounds. Dow requests that only DOT–SP 14173 be incorporated into the HMR. As an alternative, Dow suggests that DOT–SP 12858 not be incorporated into the HMR because Dow has made over 8,000 shipments with these tank cars with no safety incidents. However, DOT–SP 12858 permits the use of tank cars constructed to the AAR S–259 standard which does not align with the proposed requirements. If this cannot be achieved, Dow requests that § 179.13(b) be revised to read as follows:

> Tank cars containing poisonous-by-inhalation material meeting the applicable authorized tank car specifications listed in § 173.244(a)(2) or (a)(3), or § 173.314(c) or (d) may have a gross weight on rail of up to 286,000 pounds upon approval by the Associate Administrator for Railroad Safety, FRA. Tank cars exceeding 263,000 pounds and up to 286,000 pounds gross weight on rail must meet the requirements of the Association of American Railroads, Manual of Standards and Recommended Practices, Section C–III, Car Construction Fundamentals and Details, S–259 or S–286 (IBR; see § 171.7 of this subchapter). Any increase in weight above 263,000 pounds may not be used to increase the quantity of the contents of the tank car.

DOT–SP 12858 permits ''UN 1040, Ethylene oxide, 2.3 (poisonous gas), 2.1 (flammable gas)'' to be transported in DOT Specification 105J400W tank cars constructed of TC–128 Gr B (norm) steel. The tank car must also comply with specific ''Certificate of Construction'' numbers, AAR Standard S–259, and other betterment requirements. DOT–SP 14173 permits ethylene oxide or ethylene oxide with nitrogen up to a total pressure of 1 megapascal (MPa) (10 bar) at 50 °C to be transported in a DOT Specification 105J400W tank car that has a tank test pressure of 400 psig, gross weight on rail load of 286,000 pounds, conforms with the AAR Standard S–286 and Manual C–III, Section 2.5, and additional betterment requirements, some of which are identical to those prescribed in DOT–SP 12858. PHMSA notes that although DOT–SP 12858 was incorporated into the HMR effective October 1, 2010, in a final rule issued under Docket No. HM–233A, PHMSA erroneously omitted its provision that required FRA approval for railcars transporting PIH materials. PHMSA stated this intent in the preamble of both the Docket No. HM–233A NPRM and final rule. Therefore, to correct this error, § 179.13(b) is revised to include this requirement. The Docket No. HM–233A final rule also stated:

> These amendments also apply to any special permits this agency issues during the development of this final rule whose provisions are identical in every respect to those described in the rulemakings issued under this docket.

Because DOT–SP 14173 requires tank cars to be constructed to the AAR S–286 standard, which is currently required under the HMR, it contains provisions that are not identical to those in DOT–SP 12858, so the above-referenced statement from that final rule does not apply. Further, DOT–SP 14173 was not proposed for incorporation into the HMR in the NPRM issued under Docket No. HM–216B. As a result, the public has not been given an opportunity to comment on its incorporation as required under the Administrative Procedure Act. Therefore, it cannot be incorporated into the HMR through them at this time. However, PHMSA may review incorporating DOT–SP 14173 into the HMR in a future rulemaking.

Section 179.24

New § 179.24 was proposed in the NPRM to specify stamping requirements for identification plates for rail cars. In the NPRM, we specifically proposed to permit certain DOT and AAR specification tank cars with stainless steel identification plates to have their specification and other required information stamped on the identification plate instead of the tank car head. The stainless steel identification plates are required for newly constructed tank cars built on or after July 25, 2012. The FRA notes that all the tank car builders are parties to DOT–SP 12905; therefore the work prescribed under § 179.24 is already being performed and the 30-day effective date also prescribed in this requirement is probably not necessary. We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Section 179.100–20

Section 179.100–20 specifies certification stamping requirements for pressure tank cars. In the NPRM, PHMSA proposed to require that newly constructed DOT tanks cars display specification and other required information stamped on stainless steel identification plates instead of into the metal of the tank heads, as formerly prescribed in § 179.24(a). This section specifies tank car capacity and gross weight limitations. We did not receive

any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Midland requests that the requirement to show the water capacity of the tank in pounds as part of a tank car's specification marking be removed. This requirement to mark and/or stencil a tank car's water capacity in pounds is currently prescribed in §§ 179.201–10(a) and 179.400–25(c). Midland states that several years ago PHMSA removed stenciling and stamping from the HMR, formally prescribed in §§ 179.100–21(b) and 179.100–20, when it replaced outage and filling limits for tank cars based upon ''maximum permitted filling densities,'' formally under § 173.314(c), with ''outage and filling limits'' based on the tank's volumetric capacity, currently prescribed in §§ 173.314(c) and 173.24b(1), and not its water weight capacity. Further, Midland states the tank identification plate prescribed in paragraph 4.0 of AAR M–1002, Appendix C, does not require showing the water weight capacity of a tank car. PHMSA did not propose this change in the NPRM; therefore, it is outside the scope of this rulemaking. For this reason, PHMSA is denying this commenter's request. However, we may consider this issue in a future rulemaking.

Section 179.200–24

Section 179.200–24 specifies certification stamping requirements for non-pressure tank cars. In the NPRM, PHMSA proposed to require that newly constructed non-pressure DOT tanks cars display specification and other required information stamped on stainless steel identification plates instead of into the metal of the tank heads, as formerly prescribed in § 179.24(a). We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Section 179.201–10

Section 179.201–10 specifies water capacity marking requirements for non-pressure tank cars. In the NPRM, PHMSA proposed to permit authorized DOT non-pressure tank cars with stainless steel identification plates to have the water capacity of the tank in pounds stamped on the identification plate instead of into the metal head of the tank as prescribed in § 179.24(a) after December 31, 2011. We did not receive any comments on this proposal. However, we did revise the effective date of this provision to July 25, 2012. Therefore, it is being adopted with this date change but, otherwise, as proposed in the NPRM.

Section 179.220–25

Section 179.220–25 specifies stamping requirements for non-pressure tank car tanks consisting of an inner container supported with an outer shell (Class DOT 115). In the NPRM, PHMSA proposed to add a new paragraph (b) to require stainless steel identification plates on newly constructed Class DOT 115 non-pressure tank cars. The plates must be stamped with the specification and other required information instead of into the metal heads of the tank as prescribed in § 179.24(a). We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Section 179.300–13

Section 179.300–13 specifies venting, loading and unloading valve requirements for multi-unit tank car tanks designed to be removed from car structure for filling and emptying (Classes DOT–106A and 110AW). In the NPRM, PHMSA proposed to permit straight threads to be used in the outlet ports of DOT Specification 110A multi-unit tank cars instead of taper threads. The requirement also stipulates that stainless steel safety wire used for hex plugs in threaded boss ports must not fail during its intended use. We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Part 180

Section 180.501

Section 180.501 specifies additional requirements concerning the qualification and maintenance of tank cars that apply to persons who manufacture, fabricate, mark, maintain, repair, inspect, or service tank cars to ensure their continued qualification. In the NPRM, PHMSA proposed to make existing paragraph 180.501(b) new paragraph (c), and add new paragraphs (b) and (d) to this section to clarify, respectively, the minimally acceptable framework each owner's tank car qualification program must have, and to specify that documents concerning the tank car's qualification must be made available upon request to FRA staff or an authorized representative of the U.S. Department of Transportation. The FRA is aware that parties to DOT–SP 12095, which includes a large majority of the tank car owners, have either developed written procedures or purchased procedures from another company, such as a builder or management company like Alltranstek. The minority of tank car owners may experience an expense developing these procedures. However, they also have the option of approving the procedures of the tank car facility performing the inspections and/or repairs. As a result, their costs should be negligible. We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Section 180.503

Section 180.503 specifies that the definitions in §§ 171.8 and 179.2 apply to the tank car qualification and maintenance requirements prescribed in 49 CFR Part 180, Subpart F. In the NPRM, PHMSA proposed to add or modify into the HMR definitions prescribed in DOT–SP 12095 concerning tank car qualification and maintenance. The NPRM proposed to add definitions for the following terms: (1) Lining/coating, (2) Corrosive to the tank or service equipment, (3) Defects, (4) Interior heating system, (5) Modification, (6) Objectively reasonable and articulable belief, (7) Qualification, (8) Railworthy/Railworthiness, (9) Reinforced tank shell butt weld, (10) Reinforcing plate, (11) Reliability, (12) Safety system, (13) Service equipment owner, and (14) Tank car owner. The NPRM also proposed to modify the definitions of these terms with minor edits or rewording: (1) Design level of reliability and safety, (2) Maintenance, (3) Reactive to the tank or service equipment, (4) Representation, and (5) Service equipment. The term ''reinforcing plate'' is revised to read ''reinforcing pad'' to be consistent with the terminology in §§ 179.100–16 and 179.200–19. The NPRM did not add the definitions of these terms because they already exist in § 171.8: (1) Bottom shell, and (2) Top shell.

We received comments on these seven definitions: Corrosive to the tank or service equipment, defects, qualification, safety system, maintenance, reactive to the tank or service equipment, and representation. We also received recommendations to add two definitions that were not proposed in the NPRM, ''inspection and test'' and ''tank car,'' and discuss each definition and our responses in the following paragraphs. In addition, we reversed the wording for the definition for ''Lining/coating'' to ''Coating/lining'' in the final rule to clarify that this term does not refer to linings placed on the external surface of a tank car. Further, any definitions proposed in the NPRM that did not receive comments are being adopted as proposed.

A. Corrosive to the Tank or Service Equipment

In the NPRM, PHMSA proposed to add the definition ''corrosive to the tank

and service equipment'' to mean ''a material identified in proposed 49 CFR Part 180, Appendix D, of the NPRM, or a material when in contact with the inner shell of the tank or service equipment may have a severe corrosion rate on steel or aluminum based on criteria in § 173.137(c)(2).'' Proposed Appendix D to Part 180 lists materials that the FRA determined under certain conditions can corrode carbon steel tanks or service equipment at a rate that may reduce the design level of reliability and safety of the tank or equipment to an unsafe level before its next qualification. The HMR permits the corrosion rate on steel or aluminum prescribed in § 173.137(c)(2) to be used as one of the methods for determining whether or not a material meets the hazard class definition of a Packing Group (PG) III corrosive material.

A few commenters support including the list of materials corrosive to the tank or service equipment the NPRM proposed in Appendix D of 49 CFR Part 180 with some modifications. Several commenters recommend the 49 CFR Part 180, Appendix D list be modified to remove materials that are not corrosive to the tank according to a corrosion rate of 2.5 milli-inch per year (mpy) (0.0025 inch per year) to harmonize it with the description of corrosion to the tank prescribed in Section C, Part III, of the AAR's M–1002, Appendix L. They specifically recommend removing ''methyl methacrylate monomer, stabilized,'' from the list because it does not meet this AAR definition. ARL, GATX, and UTLX suggest PHMSA and FRA review the National Association of Corrosion Engineers (NACE) documentation on this subject prior to issuing this rulemaking. Specifically, GATX Corporation states the NACE Corrosion Data Survey establishes that ''methyl methacrylate has a corrosion rate on carbon steel of less than 2 [mpy],'' but the AAR's M–1002, Appendix L, does not list the material as corrosive because its corrosion rate on steel does not exceed the AAR's 2.5 mpy standard. Therefore, GATX recommends it be removed from the 49 CFR Part 180, Appendix D list.

FRA added the list in Appendix D to TCQ–1 to address significant damage the agency's staff found occurring in tank cars that contained materials that do not meet the HMR definition for a corrosive material. However, we agree with the commenters that it would be inaccurate to leave methyl methacrylate monomer, stabilized, on this list because at 50 °F and 100 percent concentration this material has a corrosion rate on steel of less than 2 mpy. Therefore, we have removed methyl methacrylate monomer, stabilized, from the 49 CFR Part 180, Appendix D list. We emphasize that the list in Appendix D is not exhaustive and any material identified as non-corrosive under the HMR that causes corrosive damage to a tank car or its service equipment is included under this requirement. Further, we may amend this list in the future to include additional materials we determine behave in a similar manner.

Section 173.137(c)(2) defines Packing Group III corrosive materials as materials that do ''not cause full thickness destruction of intact skin tissue but exhibit a corrosion on either steel or aluminum surfaces exceeding 6.25 mm (0.25 inch) a year at a test temperature of 55 °C (130 °F) when tested on both materials.'' It also states ''the corrosion may be determined in accordance with the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter) or other equivalent test methods.'' Several commenters object to using the corrosion rate on steel of 6.25mm (0.25 inch) a year to define the corrosive rate of a material on tank car or its service equipment saying that, although it is part of the HMR's criteria prescribed in § 173.137(c)(2) for classifying Class 8 (corrosive) materials, it has little to do with describing the effect of these materials on tank cars and their appurtenances. Many commenters expressed the belief that the definition was too strict and unworkable under a tank car corrosion control and prevention program or introduced terms too subjective to be quantified. For example, the Union Tank Car Company (UTC) suggests PHMSA remove the word ''severe'' from § 180.503 to remove the subjectivity this word introduces to the definition. UTC also states the proposed definition does not harmonize with AAR M–1002, Section C–III, Appendix L, and recommends the final rule specifically reference this AAR appendix. Dow states the rate proposed in the NPRM is twice that of the AAR MSRP, Section C–III, Appendix L, paragraph 8.3, which is 2.5 mpy. Dow also requests the definition be revised to a corrosion rate of 5 mpy or 0.005 inches per year, and states this rate would allow the opportunity for two qualifications to inspect an item before the tank car reaches the minimum allowable limit for local corrosion. The CIT Group and GATX Corporation request that the rate be changed to 0.0125 inches per year to allow for a minimum steel thickness of 0.3125 inches in a 10-year cycle. GATX states the proposed definition suggests a corrosion rate on steel of 0.25 inches per year, which it believes is severe. AllTranstek states the corrosive rate in the proposed definition ''assumes that a typical tank will experience metal loss over a 40-year period before reaching the minimum shell thickness.'' ARL and CIT Group state the proposed definition is so lenient it would exclude the majority of commodities listed in proposed 49 CFR Part 180, Appendix D. Most commenters recommend PHMSA modify the definition ''corrosive to the tank or service equipment'' to exclude materials not corrosive to the tank according to a corrosion rate of 2.5 mpy (0.0025 inch per year) to harmonize this definition with the description of corrosion to the tank prescribed in Section C, Part III, of the AAR's M–1002, Appendix L.

PHMSA and FRA agree with commenters that proposing to define a material that is ''corrosive to the tank or service equipment'' based on the Class 8 definition prescribed in § 173.137(c)(2) of the HMR may not effectively capture the effects of corrosion on a tank car and its service equipment in use over time. We also agree that harmonizing this definition with the corrosive rate on steel in Appendix L of M–1002 creates a definition based on industry experience with this type of damage to tank cars that will help prevent corrosion to the tank and service equipment, and reduce the occurrence of non-accidental releases and malfunctioning valves. FRA states this rate would also not exceed the allowable thickness reduction after 10 years for the bottom shell of a pressure tank. Further, PHMSA and FRA agree that removing subjective terms, such as the word ''severe,'' to the extent possible promotes clarity in regulations, which improves safety. Therefore, in this final rule, we are revising the definition for ''corrosive to the tank or service equipment'' to remove the word ''severe'' and establish a corrosion rate on steel of 2.5 mpy.

B. Defects

In the NPRM, PHMSA proposed to add the definition ''defect'' to mean ''abrasions;'' corrosion; cracks; dents; flaws in welds; distortions; erosion; missing, damaged, leaking or loose components and fasteners; and other conditions that lower the design level of reliability. The NPRM also repeats the full definition in § 180.509(b).

AllTranstek, CIT Group, and UTLX request the definition for ''defect'' be placed only in § 180.503 to represent what is meant by the term everywhere else it appears in 49 CFR Part 180,

Subpart F, instead of repeating the full definition in each place the term is used, such as in § 180.509(b). We agree with the commenters that this revision promotes clarity, and will make this change.

C. Inspection and Test

In the NPRM, PHMSA and FRA used the phrase ''inspections and tests'' as part of the qualification definition by stating these were required through careful and critical examination to accomplish qualification. AllTranstek and the CIT Group ask PHMSA to revise the final rule by adding a new definition for ''inspection and test'' to clarify what this wording means. AllTranstek and the CIT Group specifically request that this definition include wording that means an activity intended to: (1) Assess the current condition of equipment against the applicable tank car specification (i.e., acceptance criteria), (2) test the operation or functionality of the equipment, and (3) determine if maintenance is required to restore the equipment to its specification.

FRA interprets an ''inspection'' to be a visual examination to search for physical indications of deterioration or failure, and a ''test'' to be a physical demonstration that the tank or features function as designed. A tank car's successful completion of its inspection and test means it should remain in compliance throughout the predetermined qualification interval. PHMSA and FRA consider these qualification tasks. PHMSA and FRA also agree with commenters that adding regulatory language in this final rule that explains what is meant by inspection and test, although we believe the word ''test'' is self-explanatory. Therefore, PHMSA will add a definition to § 180.509 to clarify what is meant by ''inspection and test.'' PHMSA considers ordinary repairs to be ''routine'' maintenance and extraordinary repairs to be unexpected repairs needed to address a tank car's failure that occurs between inspections, such as repairs due to incidents, or repairs that will typically cause a tank car to be removed from service. PHMSA and FRA agree with commenters that use of the words ''ordinary'' and ''extraordinary'' are subjective and, thus, confusing. Therefore, PHMSA will replace the word ''ordinary'' with ''routine'' and remove the word ''extraordinary'' from the definition for maintenance in § 180.503.

D. Maintenance

In the NPRM, PHMSA and FRA proposed to add a definition for ''maintenance'' under § 180.503. AllTranstek states the rail industry uses the words ''maintenance'' and ''qualification'' interchangeably, and the way these terms are defined in the NPRM causes confusion. AllTranstek states PHMSA needs to revise these definitions to clarify when an owner or tank car facility is responsible for determining if a tank or component of a tank car is qualified for continued use. GATX states the definition should include any repair, from the ordinary to the extraordinary. This commenter also noted the proposed rule does not make clear what ordinary repairs are under the HMR. ARL and UTLX recommend that the definition for maintenance be clarified to ensure users of these requirements have a clear understanding of what is meant by maintenance, inspection and test, and qualification. UTLX requests the ''maintenance'' definition exclude activities that are performed by operators and shippers at facilities that are not certified or registered by the AAR. Several commenters also request PHMSA revise the definition for ''maintenance'' to state it is performed after an inspection and test and includes maintenance tasks that return a tank car to its current specification, such as lubricating a bolt, replacing a gasket or valve, or tightening fastener, replacing a cracked weld, and replacing metal loss. These commenters state maintenance does not include modifications that would alter the tank car's specification or maintenance activities (e.g., replacing a manway gasket, lubricating fasteners, tool tightening fasteners) that are performed by operators at facilities not registered or certified by the AAR. GATX Corporation questions what ''ordinary'' repairs in the maintenance definition means, and suggests that there is no need to exclude extraordinary repairs from this definition. GATX Corporation also requests the definition be revised to read as follows ''Maintenance means necessary and proper inspection, upkeep, or preservation, including ordinary repairs.''

PHMSA and FRA agree with commenters that maintenance can include tasks such as lubricating a bolt, replacing a gasket or valve, or tightening a fastener. PHMSA and FRA also agree with commenters that maintenance tasks include significant repairs to return a tank car to its specification, such as repairing a cracked weld and replacing a tank car's metal loss, or damage resulting from activities involving a tank car's inspection and test. However, PHMSA and FRA disagree with commenters that the words ''maintenance'' and ''qualification'' can be used interchangeably. In this rule, PHMSA proposed a general definition of maintenance to cover its broad applicability to the elements prescribed in § 180.509. Under this section, maintenance can be classified as scheduled (periodic inspection) or unscheduled (non-periodic inspection); it can also include activities that support qualification and those that do not. Maintenance activities that support qualification are repairs made to the tank car features that are specifically inspected and tested in conformance with the requirements under § 180.509. A tank car owner is required to establish inspection intervals, based on experience and data analysis, throughout which the car will remain qualified to transport hazardous materials. It is important to note that unscheduled maintenance activities that support qualification should be an indicator to the tank car owner that its inspection (qualification) interval may not be adequate and should be reevaluated. We interpret ''qualification'' as prescribed inspections and tests that must be performed to verify that a tank car is in satisfactory condition for continued use and, thus, meets the requirements of the HMR. As stated earlier in this preamble, PHMSA and FRA interpret ''ordinary'' repairs as ''routine'' repairs and activities that are needed to maintain an in-operation tank car to its specification after completion of its last satisfactory qualification and before its next qualification is due. We also interpret ''extraordinary'' repairs as unexpected repairs that occur between inspections and are needed to address the failure of a tank car or its appurtenances covered under 49 CFR Part 180, Subpart F. Therefore, PHMSA will add a definition for ''inspection and test'' to § 180.503, and language to § 180.509 to clarify what is meant by this wording. Further, PHMSA and FRA note the commenters who recommended that PHMSA revise the definition of maintenance to apply to repairs performed at AAR registered or certified facilities only did not provide information on the costs and benefits associated with this proposal. The FRA believes eliminating work performed at facilities that are not registered or certified by the AAR may introduce costs and operational delays that are prohibitive, and that insufficient information exists to make this determination at this time. Therefore, PHMSA is denying this request from the commenters, but may

consider it in a future rulemaking if sufficient cost and benefit information becomes available. Depending on the work required, the FRA notes most work performed on DOT specification tank cars and tank cars transporting regulated commodities must be done by registered or certified facilities. Also, the HMR cover work that must be performed by registered or certified facilities. As a result, the FRA has determined distinguishing between work performed at registered or certified facilities and those facilities that do not have either one of these designations would result in little, if any, cost implications.

E. Qualification

In the NPRM, PHMSA proposed to add the definition ''qualification'' as ''relevant to a tank'' to mean ''the car conforms to the specification to which it was built or modified, to the requirements of this Subpart, to the requirements of the AAR Tank Car Manual * * * and to the owner's acceptance criteria. Qualification is accomplished by careful and critical examination using inspections and tests based on a written program that verifies conformance, followed by a written representation of that conformance. A tank car that passes the appropriate tests for its specification, has a signed test report, is marked to denote this passage, and is considered qualified for hazardous materials transportation under'' the HMR. For ease of use, Note 1 of the table of required tank car tests and inspections that accompanies this definition was revised to include the reference to § 180.509 where paragraph (f)(2) is found. This qualification definition varies from the one prescribed in TCQ–1 in that it is reorganized and revised to state in the first sentence what the term means, in the second sentence how to achieve it, and in the last sentence what is meant by written representation of successful test.

ARL and UTLX state additions to the qualification definition in the NPRM changed its scope to incorporate the entire AAR Manual, and request that it be revised to reference the AAR M–1002, Section C–III, Appendix D. These commenters state incorporating the entire manual into the qualification definition will not allow tank car owners needed flexibility except through the issuance of another special permit. These commenters also state because the reference to the December 2000 version of the AAR's M–1002 does not include additional tank car qualification requirements in the AAR's latest Appendix D, this would allow obsolete requirements to be incorporated into this rulemaking's revisions to 49 CFR Part 180. In addition, GATX Corporation states the section references in § 171.7 for the AAR's M–1002 include requirements that do not have anything to do with tank cars or their qualification, such as requirements for intermediate bulk and ton containers as well as tank car manufacturing. GATX Corporation requests that this definition include only those M–1002 requirements that apply to tank car qualification by inserting the phrase ''applicable to tank car qualification'' in the definition where it refers to AAR's M–1002. AllTranstek states qualification is merely the final process of verifying and representing in writing that the scheduled or non-scheduled work was performed properly, and recommends the qualification definition be revised as follows:

> *Qualification* means the act or process of verifying, validating, and certifying in writing that an item conforms to the design specification. Qualification is something you do after an inspection and test, after maintenance, or after a modification (i.e., an alteration or conversion) that changes the design specification. [* * *]

AllTranstek also states the HMR require persons who perform inspection and test, maintenance, or modification functions on a tank or component subject to the HMR to prepare a report and sign it; thereby, certifying the tank or component is ''qualified for continued use'' and conforms to its design specification, or a new design specification given proper approvals. See § 180.1.

PHMSA and FRA agree incorporating the entire AAR M–1002 into the qualification definition without limiting it to only those requirements applicable to tank car qualification is confusing and alters the scope of this definition as it was used in TCQ–1. The TCQ–1 definition of qualification proposed in the NPRM includes (1) inspection and test, (2) verifying that the results of the inspection and test meet the owner's acceptance criteria, and (3) representation that the tank car meets the criteria. The revised definition AllTranstek recommended separates verification and representation from the inspection and test. FRA considers inspection and testing (e.g., careful and critical examination) to be an integral part of the definition of qualification in DOT–SP 12095. Also, PHMSA and FRA agree with the commenters that adding a definition for inspection and test to the HMR in this final rule would help clarify its intent that the qualification definition be used as it was prescribed in DOT–SP 12095. Therefore, PHMSA is revising the definition for ''qualification'' in § 180.503 to clarify that only those provisions in M–1002 concerning tank cars apply, and is adding a definition for ''inspection and test'' in § 180.503 to clarify its meaning in the qualification definition.

In the NPRM, the definition for qualification under § 180.503 states in its second sentence that ''Qualification is accomplished by careful and critical examination using inspections and tests based on a written program that verifies conformance, followed by a written representation of that conformance.'' The third sentence of this definition states ''A tank car that passes the appropriate tests for its specification, has a signed test report, is marked to denote this passage, and is considered qualified for hazardous materials transportation under this subchapter.''

Some commenters request PHMSA revise the definition of the word ''qualification'' to state it involves verifying in writing that the work performed on a tank as well as a tank car component was done properly and that this work complies with the requirements for its specification after this work is completed. Some commenters also request that the qualification definition be revised to require that in addition to passing the appropriate tests a tank car must pass appropriate inspections, as well. For example, AllTranstek states scheduled testing (e.g., every 10 years) and non-scheduled maintenance and repair activities both require an inspection.

As stated earlier in this preamble, PHMSA and FRA agree with commenters that tank car qualification definition, as this word was previously used under TCQ–1, requires that the tank car and its service equipment be inspected and tested to verify that the work performed meets the owner's acceptance criteria. The definition also states the work must have ''documentation of that conformance'' and a ''signed test report.'' Because the qualification definition already satisfies these commenters' requests, no further revisions of this type are needed to the definition. Therefore, PHMSA is denying this request.

AllTranstek requests PHMSA remove the table in the ''qualification'' definition in § 180.503, or move the leakage pressure test on this table to the ''service equipment'' definition in § 180.509(k), since a leakage pressure test is required to be performed after service equipment is applied to the tank. Leakage pressure tests reveal tank car leaks where valves are connected and also leaks on welds around and between pads. Leakage pressure tests

can also be performed and passed independent of qualification. PHMSA and FRA agree with commenter that a leakage pressure test must be performed after service equipment is applied to a tank car (see § 180.509(j)). Therefore, PHMSA and FRA agree that the table under the qualification definition is no longer needed and will be removed.

F. Reactive to the Tank or Service Equipment

In the NPRM, PHMSA proposed to add a definition for ''reactive to the tank or service equipment'' under § 180.503. Some commenters request PHMSA remove the definition ''Reactive to the tank or service equipment'' from § 180.503, and the wording ''or reactive'' from § 180.509(f)(2)(ii)(A) so that materials that react with the tank to produce heat, gases, or pressure but are not corrosive to the tank's base metal will not place an unnecessary burden on tank car owners and operators to frequently inspect tank car thickness.

FRA understands the commenters' concerns about an owner being responsible for protecting the tank against adverse conditions not related to the preservation of tank shell thickness. However, FRA disagrees with the commenters that owner should not be held responsible. Both DOT–SP 12095 and the changes proposed in the NPRM for § 180.509 appropriately hold the coating/lining owners responsible for the performance of their coatings and/or linings. Similarly, the tank car owners must remain responsible for the overall reliability and safety of their tank cars. Tank car owners must assert control over the materials transported in their tank cars through lease agreements. FRA has learned too many shippers defer to a product purity (PP) designation for their coating/lining if a commodity is not listed in DOT–SP 12095's Appendix D table. Tank car owners must require that their lessees demonstrate that both the internal coating/lining and the designation and subsequent inspection intervals and methods used are appropriate. Therefore, FRA believes the requirement proposed in the NPRM for § 180.509(f)(2)(iii)(A) is reasonable unless it can be demonstrated that the reaction of the material with the tank that produces heat, gas, or pressure, does not affect in any way the mechanical properties of the steel or cause changes in appearance in exposed areas of the tank or its service equipment that could be identified during a visual inspection. If these conditions are met, the owner could then request an alternative inspection procedure under § 180.509(l). Therefore, PHMSA is denying the commenters' request.

H. Representation

In the NPRM, PHMSA and FRA propose to reword the definition for ''representation'' in § 108.503. ARL states the definition for ''representation'' in the NPRM does not agree with the proposed regulatory text for §§ 180.511 and 180.517(b) in that it doesn't recognize retaining documents electronically. This commenter recommends PHMSA revise the proposed definition of representation to recognize electronic document retention to eliminate confusion.

PHMSA and FRA disagree that requirements concerning electronic retention of data need to be repeated in the ''representation'' definition concerning the representation of a tank car's qualification. This definition establishes that a tank car is qualified and railworthy through documentation in writing or marking, thereby, explaining what ''qualification'' means and not the documents required for it, which are in other HMR sections. However, PHMSA and FRA acknowledge that referencing the applicable sections in §§ 180.511 and 180.517 would assist the user with applying these requirements. Therefore, for clarity, PHMSA is adding the appropriate references for these sections to the definition of representation in § 180.503.

I. Safety System

In the NPRM, we proposed to add a definition for ''Safety system'' under § 180.503. ARL requests for clarification that PHMSA replace the wording ''the HMR'' in the NPRM's proposed definition for ''Safety system'' with the wording ''this subchapter.'' PHMSA and FRA agree with the commenter that this wording may clarify the full scope of the applicability of this definition, and will make this editorial change.

Under § 173.24 of the HMR, paragraphs (b)(2) and (b)(3) prohibit a package used for the shipment of hazardous materials to be made, filled, and closed so that under normal transportation conditions there will be no identifiable release hazardous materials and the effectiveness of the package will not be substantially reduced. Further, the NPRM proposed to incorporate Appendix A of TCQ–1, which lists materials that are capable, under certain conditions, of corroding a tank car or its service equipment. The language that precedes the lists in the appendix explains that the list is not all-encompassing and reminds owners and operators that they have a duty to ensure that no in-service tank will deteriorate below the specified minimum thickness requirements prescribed in DOT–SP 12095. TCQ–1 does not include a definition for materials that are reactive to a tank. Since the issuance of TCQ–1, FRA has become aware of incidents involving chemicals reacting with tank cars and their components through the use of inadequate or defective tank car coatings and/or linings. Some of these reactions are corrosive but others include mixtures of gases or vapors that could significantly reduce the effectiveness of a tank car. Examples include:

- Hydrolysis resulting in the formation of dilute acid;
- Preferential corrosion of a carbon steel tank in the presence of stainless steel components (e.g., if an internal coating of a carbon steel tank has a small breach and the contents of the tank equipped with a stainless stee siphon pipe form a conductive liquid, the tank will experience concentrated, aggressie corrosion at the location of the breach; and
- Generation of excessive pressure or explosive, flammable, toxic, asphyxiating vapors when the material in the tank car is exposed to the tank and/or its components, heat, or moisture.

FRA is aware of incidents where a chemical was placed in a tank car with an incompatible or defective lining allowing the chemical to come in contact with the steel of the tank and react. In one instance, the pressure generated from the reaction within the tank was sufficient to cause the pressure relief device to become unseated from the tank car. No one was injured, but the tank car was severely damaged and had to be removed permanently from service. The FRA determined in each of these scenarios the tank car lining owners believed the lining or internal coating used in an in-service tank car was there to ensure product purity when it was actually needed to protect the tank. Also, FRA learned some tank car lining owners assume no coating/lining inspections are required for tank cars that contain products not included on the TCQ–1 Appendix A list. Both assumptions are incorrect. A coating or lining owner must understand and prevent conditions that can cause adverse reactions to comply with the general packaging requirements for all hazardous materials packagings prescribed in § 173.24(b). Under § 173.24(b), a package used for the shipment of hazardous materials must be designed, constructed, maintained, filled, its contents so limited, and

closed, so that under conditions that normally occur in transportation: (1) There will be no identifiable release of hazardous materials to the environment; (2) the effectiveness of the packaging will not be substantially reduced; and (3) there will be no mixture of gases or vapors in the package which could through any credible spontaneous increase of heat or pressure, significantly reduce the effectiveness of the packaging. If adverse reactions can be prevented by installing a lining or internal coating, the coating or lining must be maintained and/or inspected as required in Subpart F of 49 CFR Part 180. In addition, a coating or lining applied with the primary purpose of protecting the product is subject to periodic inspections and test requirements. PHMSA and FRA proposed in the NPRM to add a new definition for ''reactive to the tank and service equipment'' and modify related regulatory text in §§ 180.503 and 180.509 to address these safety concerns. Therefore, PHMSA is denying these commenters' requests.

GATX Corporation states that the shipper and not the tank car owner should be responsible for ''protecting the tank against other adverse conditions not related to preservation of tank shell thickness, such as reactivity that results in pressure build up, harmful byproducts, etc.''

PHMSA and FRA agree with this commenter that shippers should be responsible for ensuring tank car lining integrity and appropriateness as well as the tank shell's thickness. Shippers are often the tank car lessees, and they often apply or have applied tank car coatings and/or linings to mitigate the specific risks of transporting their material in a tank car. On the other hand, lessor tank car owners may not know what materials are loaded in their tanks such that they are unable to ensure the integrity or appropriateness of a tank car's coating and/or lining. In addition, FRA and PHMSA believe shippers of materials in tank cars have the most knowledge about the risks of the materials about the risks of the materials they ship and the types of lining needed. FRA and PHMSA also believe it is appropriate that they be responsible for visually inspecting coatings and linings and determining their compatibility with the load being shipped. However, a tank car owner is still responsible for its tank car and must establish the conditions under which interior coatings and lining can be applied or removed as well as the materials that may be in a tank car, even if the owner is not the coating or lining owner. Therefore, PHMSA is denying this request.

J. Tank Car

In the NPRM, PHMSA and FRA proposed to incorporate the requirements for tank cars in TCQ–1 with modifications under the HMR. AllTranstek requests the term ''tank car'' be changed to ''tank and components subject to this subchapter'' throughout the regulatory text proposed for 49 CFR Part 180. This commenter states this wording is consistent with the scope of §§ 179.1(a), 179.2(a)(11), and 180.501 in that it will clarify that trucks, wheels, axles, airbrake equipment, draft systems, and safety appliances of a tank car are subject to the FRA's regulations prescribed in 49 CFR Parts 215, 231, and 232, but not the HMR.

PHMSA and the FRA agree that certain components of a tank car are solely subject to FRA regulations, but requirements concerning the safe design, use, and testing of a tank car and its components are also prescribed in the HMR. In addition, although the HMR contains several references to tank cars, neither ''Tank car'' or ''tank car tank'' are specifically defined in the HMR or DOT–SP 12095. ''Tank and components subject to this subchapter'' is a phrase that is also not used or defined in the HMR. Further, FRA and PHMSA believe this phrase in misleading in that the systems of a tank car depend on each for the safe operation of the entire tank car and should not be examined or managed individually in a manner that relieves the shipper or carrier of specific individual requirements, such as relief from a one-time movement or subjective assessments of conditions normally deemed to be unsafe in transportation such as determining only damage or cracks of a specific size are subject to the regulations. PHMSA and FRA agree with the commenters that adding a definition for ''tank car tank'' would provide clarity and promote consistency when complying with these regulations. PHMSA and FRA recognize that this definition was not proposed in the NPRM, and may be subject to possible revision in a future rulemaking, but believe its addition will promote the consistent understanding of this wording in the HMR and, thereby, improve safety. Therefore, PHMSA is accepting this commenter's request.

Section 180.507

Section 180.507 specifies that each DOT specification tank car used to transport hazardous materials must meet the requirements of 49 CFR Part 180, Subpart F or its applicable specification requirements. In the NPRM, PHMSA proposed to revise the first sentence in (b)(2) of § 180.507 to require the owner or operator of a tank car authorized to transport a cryogenic liquid that conforms with a special permit or exemption issued before October 1, 1984 remove the special permit or exemption number and re-mark the tank car with the appropriate Class DOT–113 specification followed by the applicable special permit number. We did not receive any comments on this proposal. However, after this provision was issued the FRA determined the need for this section no longer exists because most of the tank cars subject to this paragraph have been modified, that one special permit of this type may exist, and that the tank cars authorized under that special permit have already been marked with the current DOT–SP number. Therefore, PHMSA is removing § 180.507(b).

Section 180.509

Section 180.509 specifies requirements that each tank car facility shall use to inspect and test the specification of tank cars. In the NPRM, PHMSA proposed to add requirements under § 180.509(b) to require the owner of a tank car coating or lining to perform an appropriate inspection and test according to the type of defect and maintenance or repair performed if the tank car shows evidence of abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that would make the tank car unsafe in transportation or if the tank car was involved in an accident and shows evidence of damage that may adversely affect its capability to retain its contents or otherwise remain railworthy. The conditions and frequencies of inspections and tests are based on the tank car owner's or coating or lining owner's knowledge of the tank car and/or coating or lining. The procedures and intervals proposed in the NPRM and prescribed in this final rule are intended to prevent failure between inspections and minimize the liability of shipping hazardous materials.

ARL and GATX request that PHMSA change the title in the NPRM for § 180.509(b) from ''Conditions requiring inspection and test of tank cars'' to ''Conditions requiring qualification of tank cars'' because it is inconsistent with the use of the word ''qualification'' in the titles of § 180.509 (Requirements for qualification of specification tank cars) and § 180.509(c) (Frequency of qualification). ARL and UTLX also request PHMSA change the title ''Tank and Shell Thickness Qualification Frequencies'' for Figure A under

§ 180.509(f)(2)(iii)(B) to ''Tank Shell or Head Thickness Qualification Frequencies'' because this section has been updated in the proposed rulemaking to include tank car heads. PHMSA and FRA agree with the commenters that the changes to these titles clarify for the user what is covered in this paragraph and table. PHMSA will make these changes.

In the NPRM, PHMSA proposed to require in 180.509(d)(2) that tank cars be visually inspected when a lining, coating, head protection, insulation, or thermal protection is partially or totally removed. PHMSA and FRA also proposed under § 180.509(e)(4) to permit direct, remote, or enhanced visual inspection. UTLX requests PHMSA revise § 180.509(e)(4)(v) to list visual testing as ''VT'' and remote visual inspection as ''RVI'' to agree with AAR M–1002, Section C, Part III, Appendix T, which defines these terms separately. PHMSA and FRA agree with this commenter's suggestion that this change is consistent with AAR M–1002 and will make the change in this final rule.

With regard to a tank car coating or lining service history under § 180.509(i)(2), the FRA notes the owner must define an inspection interval. If coating or lining inspection has not been performed in that interval, the coating or lining owner has committed a violation. Under these new requirements, this owner must also define the acceptance (or rejection) criteria for the coating or lining. If the inspection result indicates its condition did not meet the minimum acceptance criteria, the coating or lining owner has committed a violation. Further, the FRA wants the following information collected and available during inspections concerning tank car coatings and linings: (1) Manufacturer recommendations, (2) previous inspection reports, (3) repair records, (4) service history (in the form of the number of trips), and (5) in-service inspections. The intent of the coating/lining inspection requirement is for the coating/lining owner to analyze inspection and test results with respect to the specific lading(s) the tank car is transporting. For example, if a shipper has fleet of rubber-lined cars and has transported three different commodities in the cars, the shipper needs to evaluate the inspection and test results relative to a specific commodity assuming the tank car is in dedicated service. Stated another way, if a tank car is used for hydrochloric acid service, the shipper needs to consider the performance of the lining to that service rather than aggregating the test results with results from linings in other services.

Section 180.511

Section 180.511 specifies what results are acceptable to qualify tank car inspections and tests. In the NPRM, PHMSA proposed: (1) To revise the introductory text of § 180.511 to require the representation of a qualified tank car's inspections and tests to be marked on the tank in conformance with § 180.515, (2) to revise § 180.511(d) to include a requirement that the safety system inspection must also show no indication of a defect that may reduce the reliability of a tank car before its next inspection and test, (3) to revise § 180.511(g) to require a hydrostatic test for the inner tank of a DOT Class 115 specification tank car, and (4) to add § 180.511(h) to establish acceptable results for inspection and test requirements for service equipment.

We did not receive any comments on these proposals. Therefore, they are being adopted as proposed in the NPRM. However, the FRA notes that there are approximately 370 DOT Class 115 specification tank cars in existence, based on 2010 numbers, and this is a very small percentage of the entire tank car fleet. Further, the FRA states these tank cars are hydrostatically tested in lieu of the structural integrity test, and there is little cost difference between these tests. The FRA also states we cannot know all the acceptance criteria currently used to inspect and test service equipment, so the costs associated with these tasks are difficult to quantify, but the FRA believes those facilities that were pressure testing the valve rather than ''disassembling and inspecting'' may experience a cost increase of $100.00 to $200.00, which may be considerable, to perform the latter type of inspection. In addition, the FRA states a valve rebuild, depending on its condition, could also increase costs along with the rate of valve replacement.

Section 180.513

Section 180.513 specifies the requirements a tank car facility must comply with to perform repairs, alternations, conversions, and modifications to a tank car. In the NPRM, PHMSA proposed to revise paragraph (a), revise paragraph (b) and renumber it paragraph (c), and add new paragraphs (b) and (d) to require that: (1) In addition to having to comply with the AAR's Specifications for Tank Cars, a tank car facility making repairs, alterations, conversions, or modifications to a tank car must comply with the tank car owner's requirements; (2) must obtain the permission of the equipment owner before performing work that would affect the alteration, conversion, repair, or qualification of the owner's equipment; and (3) after the work is performed, the tank's service equipment must successfully pass the leak test prescribed in § 180.509(j).

We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM. The FRA notes the time needed to perform the tasks prescribed in the new requirements and their costs may increase a little initially but should result in tank cars being sent to approved facilities over time. Historically, the FRA has found work performed on tank cars at approved facilities has resulted in improvements in their safe performance. Also, the FRA notes a tank car and its service equipment must successfully pass the leak test prescribed in § 180.509(j) prior to the release of a tank car from a repair facility.

Section 180.515

Section 180.515 specifies the marking requirements for tank cars that pass their inspections and tests with acceptable results. In the NPRM, PHMSA proposed to require that tank car marking requirements in § 180.515(a) be revised to establish that dates displayed on a consolidated stencil take precedence over dates that are modified and not stenciled, pursuant to interval adjustments for service equipment, linings, and granted alternative inspection intervals. The NPRM also proposed to revise § 180.515(b) to specifically list converted DOT 105, 109, 112, 114, and 120 specification tank cars, instead of ''pressure converted'' tank cars, as being required to have new specification and conversion date markings. We also proposed to revise § 180.515(c) to require that the ''installation date'' of a reclosing pressure relief device on a tank car must be the test date the device is qualified, instead of ''pressure tested,'' which must be within six months from the date it was installed and protected from deterioration. The FRA notes tank car owners must now ensure the stencils on their cars are accurate to avoid civil penalties resulting from the discovery of violations during inspections; however, this provision should result in no additional costs. We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Section 180.517

Section 180.517 specifies the reporting and record retention requirements of certified specification tank car tanks. In the NPRM, PHMSA proposed to revise § 180.517(a) to require the builder's signature on a tank car's certificate of construction and marking of the tank car with the tank's specification as representation that all the appropriate inspections and tests were performed successfully and the tank is qualified for use. PHMSA also proposed in the NPRM to revise § 180.517(b) to require that the written report of a tank car's qualification inspections and tests must be provided in a common readable format to FRA upon request, and must include the tank car reporting mark and number, specification, name of the inspector, and the unique code (station stencil) identifying the facility. The FRA's inspection authority currently affords its staff access to this information. As a result, the regulations prescribed for this section should result in no additional costs. We did not receive any comments on this proposal. Therefore, it is being adopted as proposed in the NPRM.

Appendix D to Part 180

PHMSA proposed to add a new 49 CFR Part 180, Appendix D, to include materials the FRA has determined may, under certain conditions, corrode carbon steel tanks or service equipment at a rate that may reduce their reliability. The provisions concerning Appendix D of Part 180 were discussed earlier in this preamble under the heading Section 180.503 for the definition of ''Corrosive to the tank or service equipment.'' We stated some commenters request PHMSA revise the list to exclude materials that do not meet the AAR's description of materials that are corrosive to the tank in Section C, Part III, Appendix L, of the AAR's M–1002. The AAR describes these materials as having a corrosion rate of 2.5 mpy or more. We agreed with the commenters to make this change but emphasized that the list in Appendix D is not exhaustive, and includes any material that can cause corrosive damage to a tank car or its service equipment or that otherwise reduces the reliability and safety of their design.

Sufficient Time To Remove Obsolete Special Permit Markings on Tank Cars

In its comments, Dow requests, on behalf of the Rohm & Haas Company, that PHMSA provide ''sufficient extra time to obliterate special permit number stenciling from each rail tank car'' at or before the tank car's next requalification. Dow states if PHMSA requires DOT–SP stenciling to be removed at the tank car's shipping location prior to its next shipment, Dow would incur additional costs of approximately $30,000 or $70,000 to obliterate each stenciling, as well as operational constraints to perform this task safely. The issue of special permit stenciling or marking removal was not discussed in the NPRM for this rulemaking action. However, effective March 3, 2011, PHMSA did issue a final rule concerning cargo tanks under Docket No. PHMSA–2010–0017 (HM–245, 2/1/2011, 76 FR 5483) that added a provision under § 173.23(h) to authorize any packaging permanently marked with a special permit number (DOT–SP) that has been incorporated into the HMR to continue to be marked with that obsolete special permit number for the life of the packaging, i.e., without removal or obliteration. Neither the final rule issued under Docket No. HM–245 final rule nor the HMR require non-permanent special permit stencils or markings to be removed if the special permit is obsolete.

On January 25, 2011, FRA published a notice in the **Federal Register** providing approval of certain tank cars to exceed the gross load on rail (GRL) limitation of 263,000 pounds without the need for a special permit (76 FR 4250). FRA also stated in the notice that all markings on tank cars subject to the GRL special permits that had been incorporated into the HMR under the final rule PHMSA published on May 14, 2010 (Docket No. PHMSA–2009–0289, 75 FR 27205, 5/4/2010), must be removed or obliterated by January 25, 2012, or at the tank car's first shopping event, whichever came first. FRA received several requests after the publication of that notice to extend the deadline for removing the special permit markings from tank cars to the date each subject tank car is required to have its next qualification under 49 CFR Part 180 to reduce costs and eliminate the need to provide hazmat employees in locations where this task is normally not performed with the proper equipment and training to perform the task. On January 27, 2012 (77 FR 4271), FRA agreed with the commenters' requests and issued a notice entitled ''Special Permit Marking Removal'' in the **Federal Register** that extended the deadline for removing the special permit markings from tank cars to the date each subject tank car is required to have its next qualification under 49 CFR Part 180. Based on the new § 173.23(h) and recent FRA notice, PHMSA has determined the commenter's request has already been met and no further action is needed.

Table Summary of the Provisions Adopted Into Part 180 From DOT–SP 12095

For ease of the reader, the following table summarizes the changes incorporated into 49 CFR Part 180 from DOT–SP 12095.

Number	Section No.	Proposed change to 49 CFR Part 180	Proposed change from DOT–SP 12095
1	*180.501*	Applicability	Existing paragraph (b) is now paragraph (c), and new paragraph (b) and (d) are added to clarify, respectively, the minimally acceptable framework each owner's tank car qualification program must have, and specifies that documents must be made available upon request to FRA or an authorized representative of the U.S. Department of Transportation.
2	*180.503* (Definitions)	Bottom shell	Not added. This definition already exists in § 171.8.
		Coating/lining owner	Minor edits. ''Coating'' made first word in definition to clarify that this definition applies to internal tank car coatings and linings only.
		Corrosive to the tank or service equipment.	Added corrosion rate requirement.
		Defects	Added to eliminate industry confusion.
		Design level of reliability and safety.	Minor edits.
		Inspection and test	Added to aid industry compliance.
		Interior heating system	No change.
		Lining/Coating owner	Changed to ''Coating/lining owner.'' Minor edits.
		Maintenance	Minor edits.

Number	Section No.	Proposed change to 49 CFR Part 180	Proposed change from DOT–SP 12095
		Modification	Added to aid industry compliance.
		Objectively reasonable and articulable belief.	Added to explain the use of this term in § 180.509(b)(4).
		Qualification	First sentence states what the term means instead of how to achieve it. Second sentence (essentially unchanged) states how to achieve qualification and emphasizes that ''qualification'' requires a representation that the process has been completed successfully. The table that referenced the qualifying tests and inspections has been removed.
		Railworthy, Railworthiness	Explains the term. When FRA requires a recall of a tank car or series of tank cars it issues a ''Railworthiness Directive.'' It is revised to include that the tank car must conform to the HMR, and is otherwise suitable for continued service''
		Reactive to the tank or service equipment.	Adds reactivity language based on § 173.24(b)(2) and (3).
		Reinforced tank shell butt weld.	No change.
		Reinforcing pad	The word ''plate'' was changed to ''pad'' to be consistent with §§ 179.100–16 and 179.200–19. No change to the definition.
		Reliability	No change.
		Representation	Reworded.
		Safety system	Minor edits.
		Service equipment	Minor edits.
		Service equipment owner	Added to clarify the party responsible and to accommodate a growing trend in the industry that the owner of the car may or may not own the service equipment.
		Tank car owner	This is a codification of previous FRA interpretations and statements.
		Tank car tank	Added to aid industry compliance.
		Top shell	Not added. This definition already exists in § 171.8.
3	*180.507*	Paragraph (b)(2)	Removed.
		Paragraph (b)(5)	This TCQ–1 paragraph is omitted but language is used from existing § 180.507(b)(5).
4	*180.509*	Paragraph (a)(4)	Added last sentence to ameliorate a concern from tank car owners that modifications have been made to their cars without their knowledge; minor edits.
		Paragraph (b)(4)	Replaced ''probable cause'' with the wording ''objectively reasonable and articulable belief'' because the former is a term of art in criminal law and is also used in FRA drug and alcohol regulations. The intent of § 180.509(b)(4) is to create a less-stringent standard than that of an emergency order, but rigorous enough to compel a tank car owner to re-inspect and repair, if necessary, tank cars considered potential hazards irrespective of their periodic test and inspection requirements.
		Paragraph (c)(3)	Minor edits.
		Paragraph (d)	Minor edits.
		Paragraph (d)(2)	Added last sentence for clarity.
		Paragraph (d)(3)	Added ''Corrosion'' as specific element for inspection.
		Paragraph (d)(5)	To insure inclusiveness, added ''all closures'' as substitute for specific item names.
		Paragraph (d)(6)	Dropped ''operability'' test of excess flow valves because it is not a practical test and a successful result might damage the excess valve seat and preclude seating in a future event.
		Paragraph (e)(1)	Replace ''high-stressed structural elements'' with the simpler words ''structural elements.''
		Paragraph (f)(1)	Added the responsibility of the tank car owner for clarity.
		Paragraph (f)(4)	Added a general prohibition against operating overly thin tank cars; this responsibility is changed from putting it solely on tank car owners who often have no control over the day to day movements of their tank cars.
		Paragraph (g)	Minor edits; removes the language that implies only a ''qualified individual'' could find a thin tank car and invoke the restrictions in this paragraph.
		Paragraph (h)	No change.
		Paragraph (i)	Minor edits; adds requirement for shippers to visually inspect and ensure, as required under § 173.31(d)(1), that tank car coatings/linings are compatible with their material.
		Paragraph (j)	Minor edits; Replaced the wording ''after reassembly of a tank car'' from Part 180, Subpart F, and ''installed on the tank car'' with ''installed, replaced, or reinstalled on the tank car.''
		Paragraph (l)	Minor edits.
		Paragraph (m)	After 12/2010 the requirements of paragraph (m) should have been fulfilled. There may be late tank cars or tank cars with extended alternate inspection intervals; therefore, this provision will be retained for an additional 5–10 years.
5	*180.511*		Added minor edits; included those in Part 180, Subpart F, to capture requirements for qualifying service equipment.

Number	Section No.	Proposed change to 49 CFR Part 180	Proposed change from DOT–SP 12095
6	*180.513*	Paragraph (a)	Reworded to encompass the whole AAR Tank Car Manual rather than certain appendices.
		Paragraph (b)	Added for clarification and as a reminder that tank car or component owners are responsible for verifying compliance with the owner's maintenance instructions.
		Paragraph (c)	Is the same language as existing paragraph (b) from DOT–SP 12095. The last sentence was added for clarification.
7	*180.515*	Paragraph (a)	Added last sentence to clarify the primacy of dates marked in Appendix C of the AAR Tank Car Manual.
8	*180.517*		Revised to clarify that marking or retaining the specification on the tank, either after initial construction in paragraph (a) or subsequent qualification in paragraph (b), is the ''representation'' of ''qualification'' defined in § 180.503.

IV. Rulemaking Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under the authority of 49 U.S.C. 5103(b) which authorizes the Secretary to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. 49 U.S.C. 5117(a) authorizes the Secretary of Transportation to issue a special permit from a regulation prescribed in §§ 5103(b), 5104, 5110, or 5112 of the Federal Hazardous Materials Transportation Law to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level at least equal to the safety level required under the law, or consistent with the public interest, if a required safety level does not exist. This final rule will amend the regulations incorporating provisions from certain widely used and longstanding special permits that have established a history of safety and convert them into regulations for general use.

B. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) and was not reviewed by the Office of Management and Budget (OMB). The final rule is not considered a significant rule under the Regulatory Policies and Procedures order issued by the Department of Transportation [44 FR 11034].

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' In this final rule, PHMSA will amend the HMR by incorporating alternatives this agency has permitted under widely used and longstanding special permits with established safety records that we have determined meet the safety criteria for inclusion in the HMR. Incorporating these special permits into regulations of general applicability will provide shippers and carriers with additional flexibility to comply with established safety requirements, thereby reducing transportation costs and increasing productivity.

Some of the provisions in this final rule clarify existing responsibilities under the HMR, such as provisions incorporated by reference under the AAR's Specifications for Tank Cars or a shipper's responsibility to ensure a packaging, in this case a tank car and its coating or lining, if applicable, is compatible with the material it contains. Others clarify responsibilities that existed only in the special permits and are being incorporated into the HMR through this final rule, such as the TCQ–1 inspection criteria. Still other provisions in this final rule were added in response to requests from commenters for safer procedures, clarification, or were revised to convert them into regulations of general applicability, such as adding: Requirements that tank car and coating/lining owners develop requirements for repairs, alterations, etc., and users comply with these requirements; an industry accepted corrosion rate to the definition for ''corrosive to the tank or service equipment;'' and, definitions for user clarity such as the new definitions for ''inspection and test'' and ''tank car tank.'' Because of these revisions, some members of the hazardous materials rail transportation industry may be unaware of some of the changes in this final rule and may experience short-term costs to implement them. However, we believe these costs will be offset by long-term savings and safety benefits from using regulations that are less burdensome overall, ensure better tank car integrity and performance, and provide greater flexibility and clarity than the provisions currently prescribed in the HMR. Further, a large majority of tank car owners who are parties to DOT–SP 12095 have developed written procedures or purchased them from a builder or management company like Alltranstek. The minority of tank car owners who choose to not purchase these procedures may experience an expense developing them. However, they also have the option of approving the procedures of the tank car facility performing the inspections and/or repairs; as a result, their costs should be negligible.

Under § 179.24, the FRA notes that all the tank car builders are parties to DOT–SP 12905; therefore the work prescribed under § 179.24 is already being performed and the 30-day effective date also prescribed in this requirement is probably not necessary.

With regard to § 180.509(g), the FRA notes that there are approximately 370 DOT Class 115 specification tank cars in existence, based on 2010 numbers, and this is a very small percentage of the entire tank car fleet. Further, the FRA states these tank cars are hydrostatically tested in lieu of the structural integrity test, and there is little cost difference between these tests. The FRA also states we cannot know all the acceptance criteria currently used to inspect and test service equipment under § 180.511(h), so the costs associated with these tasks are difficult to quantify, but the FRA believes those facilities that were pressure testing the valve rather than ''disassembling and inspecting'' may experience a cost increase of $100.00 to $200.00, which may be considerable, to perform the latter type of inspection. In addition, the FRA states a valve rebuild, depending on its condition, could also increase costs

along with the rate of valve replacement.

Under § 180.509, depending on the work required, the FRA notes most work performed on DOT specification tank cars and tank cars transporting regulated commodities must be done by registered or certified facilities. Also, the HMR cover work that must be performed by registered or certified facilities. As a result, the FRA has determined distinguishing between work performed at registered or certified facilities and those facilities that do not have either one of these designations would result in little, if any, cost implications.

Under § 180.513, the FRA notes the time needed to perform the tasks prescribed in the new requirements and their costs may increase a little initially but should result in tank cars being sent to approved facilities over time. Historically, the FRA has found work performed on tank cars at approved facilities has resulted in improvements in their safe performance. Also, the FRA notes a tank car and its service equipment must successfully pass the leak test prescribed in § 180.509(j) prior to the release of a tank car from a repair facility.

Under § 180.515(a), the FRA notes tank car owners must now ensure the stencils on their cars are accurate to avoid civil penalties resulting from the discovery of violations during inspections; however, this provision should result in no additional costs because new regulations in this final rule require those performing tank car work that requires stenciling (e.g., alteration, conversion, repair, or qualification of the owner's equipment) to obtain the tank car owner's permission before performing that work and to inform the owner of required test results.

Under § 180.517(b), the FRA's inspection authority currently affords its staff access to this information. As a result, the regulations prescribed for this section should result in no additional costs.

The commenters did not discuss environmental impact issues in their comments. In addition, the provisions in this final rule will reduce the paperwork burden on industry and this agency caused by continued renewals of special permits. The provisions of this final rule will promote the continued safe transportation of hazardous materials while reducing transportation costs for the industry and administrative costs for the agency. Therefore, the requirements of Executive Orders 12866 and 13563, and the DOT policies and procedures concerning these orders have been satisfied.

C. Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule will preempt state, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Federal hazardous material transportation law, 49 U.S.C. 5101, et seq., contains an express preemption provision (49 U.S.C. 5125(b)) preempting state, local and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The designing, manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing of a package, container or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This final rule addresses covered subject items (2), (3), and (5) and will preempt any State, local, or Indian tribe requirements not meeting the ''substantively the same'' standard. Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that if PHMSA issues a regulation concerning any of the covered subjects, PHMSA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. PHMSA has determined the effective date of federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register.**

D. Executive Order 13175

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze regulations and assess their impact on small businesses and other small entities to determine whether the rule is expected to have a significant impact on a substantial number of small entities. This final rule will amend the HMR to incorporate provisions contained in seven widely used or longstanding railroad special permits that have an established safety record. Although many of the applicants may be small businesses or other small entities, PHMSA believes that the amendments in this final rule will provide wider access to the regulatory flexibility offered in special permits and eliminate the need for numerous renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety. Therefore, PHMSA certifies that the provisions of this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that the impacts of final rules on small entities are properly considered.

F. Paperwork Reduction Act

PHMSA has approved information collections under OMB Control Number 2137–0051, ''Rulemaking, Special Permits, and Preemption Requirements,'' OMB Control Number 2137–0557, ''Approvals for Hazardous Materials,'' and OMB Control Number 2137–0559, ''(Rail Carriers and Tank Car Requirements) Requirements for Rail Tank Cars—Transportation of Hazardous Materials by Rail.'' This final rule may result in a decrease in the annual burden and costs under OMB Control Number 2137–0051 and an increase in the annual burden and costs under OMB Control Number 2137–0557 and OMB Control Number 2137–0559 over time due to amendments to incorporate provisions contained in

certain widely used or longstanding special permits that have an established safety record.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

This final rule identifies a revised information collection request that PHMSA will submit to OMB for approval based on the requirements in this rule. PHMSA has developed burden estimates to reflect changes in this final rule. PHMSA estimates that the information collection and recordkeeping burden as proposed in this rule are as follows:

OMB Control No. 2137–0051:

Decrease in Annual Number of Respondents: 255
Decrease in Annual Responses: 255
Decrease in Annual Burden Hours: 255
Decrease in Annual Burden Costs: $9,500

OMB Control No. 2137–0557:

Increase in Annual Number of Respondents: 200
Increase in Annual Responses: 200
Increase in Annual Burden Hours: 50
Increase in Annual Burden Costs: $1,100

OMB Control No. 2137–0559:

Increase in Annual Number of Respondents: 350
Increase in Annual Responses: 350
Increase in Annual Burden Hours: 525
Increase in Annual Burden Costs: $15,750

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either state, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

I. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), and implementing regulations by the Council on Environmental Quality (40 CFR Part 1500) require Federal agencies to consider the consequences of Federal actions and prepare a detailed statement on actions that significantly affect the quality of the human environment.

The hazardous materials regulatory system is a risk management system that is prevention oriented and focused on identifying a hazard and reducing the probability and quantity of a hazardous materials release. This rulemaking is concerned with the transportation of hazardous materials by rail, but is prepared with the understanding that these materials are often transported by aircraft, vessel, and highway before or after they are transported by rail. The need for hazardous materials to support essential services means transportation of highly hazardous materials is unavoidable. However, these shipments frequently move through densely populated or environmentally sensitive areas where the consequences of an incident could be loss of life, serious injury, or significant environmental damage. The ecosystems that also could be affected by a hazardous materials release during transportation include atmospheric, aquatic, terrestrial, and vegetal resources (for example, wildlife habitats). The adverse environmental impacts associated with releases of most hazardous materials are short-term impacts that can be greatly reduced or eliminated through prompt clean-up of the incident scene. On August 18, 2011, we issued a NPRM in which we requested information on the potential environmental impacts of the proposals.

In all modes of transport, the potential for environmental damage or contamination exists when packages of hazardous materials are involved in transportation incidents. Most of the special permits considered in this rulemaking involve bulk packages of hazardous materials in DOT specification and non-specification tank cars. While the volume of hazardous material present in these packagings has the potential to be released into the environment during a transportation incident, these packagings are constructed to withstand greater forces during impact and are also equipped with safety relief devices and valves specifically designed to maintain the containment ability of the tank car.

The purpose and need of this rulemaking is to incorporate widely used special permits or those with an established safety record into the HMR for universal use. More information about benefits of this final rulemaking action can be found in the preamble (i.e., ''Overview of Proposed Amendments'') to this rulemaking. The alternatives considered in the analysis include (1) The proposed action, that is, incorporation of the proposed special permits as amendments to the HMR; (2) incorporation of some subset of the proposed special permits (i.e., only some of the proposed special permits) as amendments to the HMR; and (3) the ''no action'' alternative, meaning that none of the proposed special permits would be incorporated into the HMR. In considering the potential environmental impacts of this final rulemaking action, PHMSA does not anticipate that the incorporation of the listed special permits will result in any significant impact on the human environment because the process through which special permits are issued requires the applicant to demonstrate that the alternative transportation method or packaging proposed provides an equivalent level of safety as that provided in the HMR. Further, the commenters did not discuss environmental impact issues in their comments.

The agencies and persons consulted in the development of this final rule include the International Vessel Operators Hazardous Materials Association, Inc.; Gold Tank Inspection Services, Inc.; Surface Deployment and Distribution Command (SDDC); Conrail; Agrium N.A. Wholesale Transportation Compliance; Koch Nitrogen Company; Columbiana Boiler Company; and subject matter expert staff in FRA and PHMSA.

This final rule will amend the HMR to incorporate provisions contained in certain widely used or longstanding railroad special permits that have an established safety record. As a result, incorporating its provisions into the HMR will increase the safety and environmental protections for transporting the materials previously covered under these special permits. Because OMB determined this final rule is non-significant, no RIA is required. Further, the cost assumptions in this final rule originated from industry or FRA experience, and we consider them to be reasonable. In addition, in this final rule we have responded to the cost concerns presented by the commenters and mitigated them wherever possible. Based on this analysis, we have determined that the requirements

adopted in this final rule will not have a significant economic impact on a substantial number of small entities.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78), or at *http://www.regulations.gov.*

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Incorporation by reference, Radioactive materials, Rail carriers, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, we amend 49 CFR Chapter I as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 2. In the ''Table of material incorporated by reference,'' at § 171.7(a)(3), for the entry ''AAR Manual of Standards and Recommended Practices, Section C-Part III, Specifications for Tank Cars, Specification M–1002, (AAR Specifications for Tank Cars), December 2000, the reference to § 174.63 is removed.

■ 3. In § 171.8, the new definitions for ''Electronic data interchange'' and ''Train consist'' are added in alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Electronic data interchange (EDI) means the computer-to-computer exchange of business data in standard formats. In EDI, information is organized according to a specific format (electronic transmission protocol) agreed upon by the sender and receiver of this information, and transmitted through a computer transaction that requires no human intervention or retyping at either end of the transmission.

* * * * *

Train consist means a written record of the contents and location of each rail car in a train.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

■ 4. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.53.

■ 5. In § 172.201, revise paragraph (a)(2) and paragraph (a)(5) is added to read as follows:

§ 172.201 Preparation and retention of shipping papers.

(a) * * *

(2) The required shipping description on a shipping paper and all copies of the shipping paper used for transportation purposes must be legible and printed (manually or mechanically) in English.

* * * * *

(5) *Electronic shipping papers.* For transportation by rail, a rail carrier may accept shipping paper information either telephonically (i.e., voice communications and facsimiles) or electronically (EDI) from an offeror of a hazardous materials shipment in accordance with the provisions in paragraphs (a)(5)(i)–(a)(5)(iv) of this section. See § 171.8 for the EDI definition.

(i) When the information applicable to the consignment is provided under this requirement the information must be available to the offeror and carrier at all times during transport, and the carrier must have and maintain a printed copy of this information until delivery of the hazardous materials on the shipping paper is complete. When a paper document is produced, the data must be presented as required by this subpart.

(ii) The offeror must forward the shipping paper (record) for a loaded movement to the carrier prior to shipment unless the carrier prepares the shipping paper on behalf of the offeror. The offeror is only relieved of the duty to forward the shipping paper once the offeror has received a copy of the shipping paper from the carrier;

(iii) A carrier that generates a residue shipping paper using information from the previous loaded movement of a hazardous materials packaging must ensure the description of the hazardous material that accompanies the shipment complies with the offeror's request; and

(iv) *Verification.* The carrier and the offeror must have a procedure by which the offeror can verify accuracy of the transmitted hazard communication information that will accompany the shipment.

* * * * *

■ 6. In § 172.202, add a new sentence to the end of paragraph (b) to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

* * * * *

(b) * * * Shipping descriptions for hazardous materials offered or intended for transportation by rail that contain all the information required in this subpart and that are formatted and ordered in accordance with recognized electronic data interchange standards and, to the extent possible, in the order and manner required by this subpart are deemed to comply with this paragraph.

* * * * *

■ 7. In § 172.204, in paragraph (a) introductory text, add a new sentence at the end of the paragraph, and add new paragraphs (a)(3) and (d)(3) to read as follows:

§ 172.204 Shipper's certification.

(a) * * * For transportation by rail only, the certification may be received verbally or with an electronic signature

in conformance with paragraphs (a)(3)(i) and (a)(3)(ii) of this section.

* * * * *

(3) *Rail only certifications.* For transportation by rail, the shipping paper certification may also be accomplished by one of the following methods:

(i) *Verbal Certification.* When received telephonically, by the carrier reading the complete shipping description that will accompany the shipment back to the offeror and receiving verbal acknowledgment that the description is as required. This verbal acknowledgement must be recorded, either on the shipping document or in a separate record, e.g., the waybill, in accordance with § 174.24, and must include the date and name of the person who provided this information; or

(ii) *Electronic Signature Certification.* When transmitted electronically, by completing the field designated for the shipper's signature, the shipper is also certifying its compliance with the certification specified in § 172.204(a).'' The name of the principal partner, officer, or employee of the offeror or their agent must be substituted for the asterisks;

* * * * *

(d) * * *

(3) For transportation by rail, when transmitted by telephone or electronically, the signature must be in one of the following forms: The name of the principal person, partner, officer, or employee of the offeror or his agent in a computer field defined for that purpose.

■ 8. In § 172.604, paragraphs (a) introductory text and (a)(3)(ii) are revised to read as follows:

§ 172.604 Emergency response telephone number.

(a) A person who offers a hazardous material for transportation must provide an emergency response telephone number, including the area code, for use in an emergency involving the hazardous material. For telephone numbers outside the United States, the international access code or the ''+'' (plus) sign, country code, and city code, as appropriate, that are needed to complete the call must be included. The telephone number must be—

* * * * *

(3) * * *

(ii) Entered once on the shipping paper in the manner prescribed in paragraph (b) of this section in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found, such as by highlighting, use of a larger font or a font that is a different color from other text and information, or otherwise setting the information apart to provide for quick and easy recognition. The offeror may use one of the methods prescribed in this paragraph only if the telephone number applies to each hazardous material entered on the shipping paper, and if it is indicated that the telephone number is for emergency response information (for example: ''EMERGENCY CONTACT: * * *'').

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 9. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

■ 10. In § 173.314, revise paragraphs (e) and (k) to read as follows:

§ 173.314 Compressed gases in tank cars and multi-unit tank cars.

* * * * *

(e) *Verification of content.* (1) The amount of liquefied gas loaded into each tank may be determined either by measurement or calculation of the weight, except that DOT specification tank car tanks authorized for the transportation of anhydrous ammonia and ammonia solution may have the amount of liquefied gas loaded into the tank car measured by a metering device in conformance with paragraph (e)(2) of this section.

(2) *Metering device.* (i) Tank cars loaded with anhydrous ammonia or ammonia solution through the use of a metering device in conformance with this section are not required to be weighed, but must have their outage measured with a magnetic gauging device to determine that the tank car is properly loaded in conformance with this paragraph. Written procedures for loading a tank car using a metering device must be developed and made available at each location where such loading takes place. Certification in writing of the inspection and completion of these loading and/or unloading procedures must be maintained for each tank car and maintained in accordance with the recordkeeping requirements in paragraph (e)(2)(iii) of this section, and all necessary records must be completed. At a minimum, these procedures will specify:

(A) The tank car must be offered for transportation in conformance with all applicable government regulations.

(B) Any defects found when the tank car is examined before shipping must be recorded, and the tank must not be loaded until the repairs to eliminate each defect are completed.

(C) The tank car must be allowed to sit undisturbed for at least 10 minutes after loading to allow material within the tank to settle. After this has occurred a final check for leaks must be conducted prior to offering the tank car for transportation.

(ii) One out of every 10 tank cars loaded by the use of the metering device must be gauged utilizing the fixed gauging equipment on the tank car to verify by calculation the amount of anhydrous ammonia or ammonia solution contained in the tank car.

(iii) *Recordkeeping.* The following information must be maintained and be made available to any representative of the DOT upon request for each tank car loaded with the use of a metering device:

(A) Date loaded,

(B) Date shipped,

(C) Tank car reporting marks,

(D) DOT Specification,

(E) Tank car stenciled shell capacity (gallons/liters),

(F) Tank car stenciled tare weight (pounds/kilograms),

(G) Outage or innage table number,

(H) Water capacity of tank in pounds and/or kilograms,

(I) Maximum permitted filling density (see § 173.314),

(J) Specific gravity of anhydrous ammonia or ammonia solution at the reference temperature,

(K) Tank car outage (inches/meters, gallons/liters),

(L) Gallons/liters of liquid ammonia in tank car,

(M) Quantity of vapor ammonia in tank car (gallons/liters), and

(N) Total calculated ammonia (liquid & vapor) in tank car (pounds/kilograms).

* * * * *

(k) *Special requirements for chlorine.* (1) Tank cars built after September 30, 1991, must have an insulation system consisting of 5.08 cm (2 inches) glass fiber placed over 5.08 cm (2 inches) of ceramic fiber. Tank cars must have excess flow valves on the interior pipes of liquid discharge valves. Tank cars constructed to a DOT 105A500W specification may be marked as a DOT 105A300W specification with the size and type of reclosing pressure relief valves required by the marked specification.

(2) DOT105J500W tank cars may be used as authorized packagings, as prescribed in this subchapter for transporting ''Chlorine, 2.3 (8), UN

1017, Poison Inhalation Hazard, Zone B, RQ,'' if the tank cars meet all DOT specification requirements, and the tank cars are equipped with combination safety relief valves with a start-to-discharge pressure of 360 psi, rather than the 356 psi. The start-to-discharge pressure setting must be marked on the pressure relief device in conformance with applicable provisions of the AAR Specification for Tank Cars (IBR, see § 171.7 of this subchapter).

* * * * *

PART 174—CARRIAGE BY RAIL

■ 11. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 12. In § 174.63(c)(2) is revised to read as follows:

§ 174.63 Portable tanks, IM portable tanks, IBCs, cargo tanks, and multi-unit tank car tanks.

* * * * *

(c) * * *

(2) The tank and flatcar must comply with the applicable requirements of the HMR concerning their specification.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

■ 13. The authority citation for part 179 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 14. In § 179.13, paragraph (b) is revised to read as follows:

§ 179.13 Tank car capacity and gross weight limitation.

* * * * *

(b) Tank cars containing poisonous-by-inhalation material meeting the applicable authorized tank car specifications listed in § 173.244(a)(2) or (3), or § 173.314(c) or (d) may have a gross weight on rail of up to 286,000 pounds upon approval by the Associate Administrator for Railroad Safety, FRA. Tank cars exceeding 263,000 pounds and up to 286,000 pounds gross weight on rail must meet the requirements of AAR Standard S–286, Free/Unrestricted Interchange for 286,000 lb Gross Rail Load Cars (IBR, see § 171.7 of this subchapter). Any increase in weight above 263,000 pounds may not be used to increase the quantity of the contents of the tank car.

■ 15. In Subpart B, new § 179.24 is added to read as follows:

§ 179.24 Stamping.

(a)(1) After July 25, 2012, to certify compliance with federal requirements, the tank manufacturer must install two identical permanent identification plates, one located on both inboard surfaces of the body bolsters of the tank car. One identification plate must be installed on the right side (AR) of the tank car, and the other must be installed on the back end left side (BL) body bolster webs so that each plate is readily accessible for inspection. The plates must be at least 3/32 inch thick and manufactured from corrosion resistant metal. When the tank jacket (flashing) covers the body bolster web and identification plates, additional identical plates must be installed on the AR and BL corners of the tank in a visible location. Tank cars built before July 25, 2012, may have the plate instead of or in addition to the stamping.

(2) Each plate must be stamped, embossed, or otherwise marked by an equally durable method in letters 3/16 inch high with the following information (parenthetical abbreviations may be used, and the AAR form reference is to the applicable provisions of the AAR Specifications for Tank Cars, December 2000 edition (IBR, see § 171.7 of this subchapter)):

(i) *Tank Manufacturer (Tank MFG):* Full name of the car builder as shown on the certificate of construction (AAR form 4–2).

(ii) *Tank Manufacturer's Serial Number (SERIAL NO):* For the specific car.

(iii) *AAR Number (AAR NO):* The AAR number from line 3 of AAR Form 4–2.

(iv) *Tank Specification (SPECIFICATION):* The specification to which the tank was built from line 7 of AAR form 4–2.

(v) *Tank Shell Material/Head Material (SHELL MATL/HEAD MATL):* ASTM or AAR specification of the material used in the construction of the tank shell and heads from lines 15 and 16 of AAR Form 4–2. For Class DOT–113W, DOT–115W, AAR–204W, and AAR–206W, the materials used in the construction of the outer tank shell and heads must be listed. Only list the alloy (e.g., 5154) for aluminum tanks and the type (e.g., 304L or 316L) for stainless steel tanks.

(vi) *Insulation Material (INSULATION MATL):* Generic names of the first and second layer of any thermal protection/insulation material applied.

(vii) *Insulation Thickness (INSULATION THICKNESS):* In inches.

(viii) *Underframe/Stub Sill Type (UF/SS DESIGN):* The design from Line 32 of AAR Form 4–2.

(ix) *Date of Manufacture (DATE OF MFR):* The month and year of tank manufacture. If the underframe has a different built date than the tank, show both dates.

(3) When a modification to the tank changes any of the information shown in paragraph (a)(2) of this section, the car owner or the tank car facility making the modification must install an additional variable identification plate on the tank in accordance with paragraph (a)(1) of this section showing the following information:

(i) *AAR Number (AAR NO):* The AAR number from line 3 of AAR Form 4–2 for the alteration or conversion.

(ii) All items of paragraph (a)(2) of this section that were modified, followed by the month and year of modification.

(b) [Reserved].

■ 16. In § 179.100–20, add paragraph (b) to read as follows:

§ 179.100–20 Stamping.

* * * * *

(b) After July 25, 2012, newly constructed DOT tank cars must have their DOT specification and other required information stamped plainly and permanently on stainless steel identification plates in conformance with the applicable requirements prescribed in § 179.24(a). Tank cars built before July 25, 2012, may have the identification plates instead of or in addition to the head stamping.

■ 17. In § 179.200–24, new paragraph (c) is added to read as follows:

§ 179.200–24 Stamping.

* * * * *

(c) After July 25, 2012, newly constructed DOT tank cars must have their DOT specification and other required information stamped plainly and permanently on stainless steel identification plates in conformance with the applicable requirements prescribed in § 179.24(a). Tank cars built before July 25, 2012, may have the identification plates instead of or in addition to the head stamping.

■ 18. In § 179.201–10, add paragraph (b) to read as follows:

§ 179.201–10 Water capacity marking.

* * * * *

(b) After July 25, 2012, authorized DOT non-pressure tank cars that comply with this section and are equipped with stainless steel identification plates may have the water capacity of the tank in pounds prescribed in the first sentence of paragraph (a) of this section stamped plainly and permanently on their identification plate in conformance with the applicable marking requirements

prescribed in § 179.24(a) instead of into the metal of the tank or immediately below the stamped marks specified in § 179.200–24(a).

■ 19. In § 179.220–25, redesignate the introductory paragraph as paragraph (a), and new paragraph (b) is added to read as follows:

§ 179.220–25 Stamping.

* * * * *

(b) After July 25, 2012, newly constructed DOT tank cars must have their DOT specification and other required information stamped plainly and permanently on stainless steel identification plates in conformance with the applicable requirements prescribed in § 179.24(a). Tank cars built before July 25, 2012, may have the identification plates instead of or in addition to the head stamping.

■ 20. In § 179.300–13, paragraph (b) is revised to read as follows:

§ 179.300–13 Venting, loading and unloading valves.

* * * * *

(b) Threads for openings must be National Gas Taper Threads (NGT) tapped to gauge, clean cut, even and without checks. Taper threads must comply with § 178.61(h)(3)(i) and (h)(3)(ii). Threads for the clean-out/inspection ports of DOT Specification 110A multi-unit tank car tanks may be straight threads instead of taper threads. The straight threads must meet the requirements of § 178.61(h)(3)(i) and (h)(3)(iii). Hex plugs may be secured to threaded boss ports using stainless steel safety wire that must not fail during its intended use.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 21. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 22. In § 180.501, paragraph (a) is revised, paragraph (b) is redesignated as paragraph (c), and new paragraphs (b) and (d) are added to read as follows:

§ 180.501 Applicability.

(a) This subpart prescribes requirements, in addition to those contained in parts 107, 171, 172, 173, 174, and 179 of this subchapter, applicable to any person who manufactures, fabricates, marks, maintains, repairs, inspects, or services tank cars to ensure continuing qualification.

(b) This subpart also establishes the minimum acceptable framework for an owner's qualification program for tank cars and components. Owners should follow this subpart in developing their written procedures (work instructions), as required under § 179.7(d), for use by tank car facility employees. The owner's qualification program for each tank car, or a fleet of tank cars, must identify where to inspect, how to inspect, and the acceptance criteria. Alternative inspection and test procedures or intervals based on a damage-tolerance analysis or service reliability assessment must be approved by the Associate Administrator for Railroad Safety in accordance with 180.509(l). Tank car facilities must incorporate the owner's qualification program in their quality assurance program, as required under § 179.7(a)(2), (b)(3), (b)(5), and (d).

* * * * *

(d) Where, in this subpart, a person is required to make documents available to FRA upon request, such request means that credentialed FRA personnel or an authorized representative of the Department may view the documents and make copies of them. The document owner's may seek confidential treatment of the documents presented. See § 105.30.

■ 23. Revise § 180.503 to read as follows:

§ 180.503 Definitions.

The following definitions and those contained in §§ 171.8 and 179.2 of this subchapter apply:

Coating/lining owner means the person with the financial responsibility for purchasing and maintaining the integrity of the interior coating or lining.

Corrosive to the tank or service equipment means a material identified in Appendix D of this part or a material when in contact with the inner shell of the tank or service equipment has a corrosion rate on steel greater than 2.5 milli-inch per year (mpy) (0.0025 inch per year).

Defects mean abrasions; corrosion; cracks; dents; flaws in welds; distortions; erosion; missing, damaged, leaking or loose components and fasteners; and other conditions or imperfections that may make a tank car unsafe for transportation and/or require it to be removed from service.

Design level of reliability and safety means the level of reliability and safety built into the tank car and, therefore, inherent in its specification, design, and manufacture.

Inspection and test means a careful and critical examination of a tank car and its appurtenances performed by qualified personnel following the owner's qualified procedures.

Interior heater system means a piping system located within the tank shell that uses a fluid medium to heat the lading for the purposes of unloading.

Maintenance means upkeep, or preservation, including repairs necessary and proper to ensure an in-operation tank car's specification until its next qualification.

Modification means any change to a tank car that affects the certificate of construction prescribed in § 179.5, including an alteration prescribed in § 179.6, or conversion.

Objectively reasonable and articulable belief means a belief based on particularized and identifiable facts that provide an objective basis to believe or suspect that a tank car or a class or design of tank cars may be in an unsafe operating condition.

Qualification, as relevant to a tank car, means the car and its components conforms to the specification to which it was designed, manufactured, or modified to the requirements of this subpart, to the applicable requirements of the AAR Tank Car Manual (IBR, see § 171.7 of this subchapter), and to the owner's acceptance criteria. Qualification is accomplished by careful and critical examination that verifies conformance using inspections and tests based on a written program approved by the tank car owner followed by a written representation of that conformance. A tank car that passes the appropriate tests for its specification, has a signed test report, is marked to denote this passage, and is considered qualified for hazardous materials transportation under this subchapter.

Qualification of	Tests and inspections	§ 180.509(*)
Tank	Visual Inspection	d
	Structural Integrity Inspection	e
	Thickness Test: Note 1	f
	Safety System Inspection	h
Service Equipment	Service Equipment	k

Qualification of	Tests and inspections	§ 180.509(*)
Coating/lining	Internal Coatings and Linings	i

Note 1: Subparagraph (f)(2) may require thickness tests at an interval different from the other items for qualification of the tank.

Railworthy, Railworthiness for a tank car means that the tank, service equipment, safety systems, and all other components covered by this subchapter conform to the HMR, and are otherwise suitable for continued service and capable of performing their intended function until their next qualification.

Reactive to the tank or service equipment means a material that, in contact with the inner shell of the tank, or with the service equipment, may react to produce heat, gases, and/or pressure which could substantially reduce the effectiveness of the packaging or the safety of its use.

Reinforced tank shell butt weld means the portion of a butt weld covered by a reinforcing pad.

Reinforcing pad means an attachment welded directly to the tank supporting major structural components for the purpose of preventing damage to the tank through fatigue, overstressing, denting, puncturing, or tearing.

Reliability means the quantified ability of an item or structure to operate without failure for the specified period of its design life or until its next qualification.

Representation means attesting through documenting, in writing or by marking on the tank (or jacket), that a tank car is qualified and railworthy. See also §§ 180.511 and 180.517(b).

Safety system means one or more of the following: Thermal protection systems, insulation systems, tank head puncture resistance systems, coupler vertical restraint systems, and systems used to protect discontinuities (e.g., skid protection and protective housings) as required under this subchapter.

Service equipment means equipment used for loading and unloading (including an interior heating system), sampling, venting, vacuum relief, pressure relief, and measuring the amount of lading or the lading temperature.

Service equipment owner means the party responsible for bearing the cost of the maintenance of the service equipment.

Tank car owner means the person to whom a rail car's reporting marks are assigned, as listed in the Universal Machine Language Equipment Register (UMLER).

Tank car tank means the shell, heads, tank shell and head weld joints, attachment welds, sumps, nozzles, flanges, and all other components welded thereto that are either in contact with the lading or contain the lading.

Train consist means a written record of the contents and location of each rail car in a train.

§ 180.507 [Amended]

■ 24. In § 180.507, remove paragraph (b)(2).

§ 180.509 [Amended]

■ 25. Amend § 180.509 as follows:

■ a. Add, (f)(3), (f)(4), (f)(5), (f)(6), (i)(2) and (i)(3);

■ b. Revise paragraphs (a), (b), (c)(3), (d), (e), (f), (g), (h), (i), and (j);

■ c. Redesignate paragraph (l) as paragraph (m), redesignate paragraph (k) as paragraph (l), revise the newly redesignated paragraph (l), and add a new paragraph (k).

§ 180.509 Requirements for qualification of specification tank cars.

(a) *General.* Each tank car owner must ensure that a tank car facility:

(1) Inspects and tests each item according to the requirements specified in this section;

(2) Evaluates each item according to the acceptable results of inspections and tests specified in § 180.511;

(3) Marks each tank car as specified in § 180.515 that is qualified to transport hazardous materials;

(4) Prepares the documentation as required by § 180.517 for each item qualified under this section. A copy of the documentation required by § 180.517 must be sent to the owner as appropriate and according to the owner's instructions.

(b) *Conditions requiring qualification of tank cars.* Without regard to the qualification compliance date requirements of any paragraph of this section, an owner of a tank car or an internal coating or lining must ensure an appropriate inspection and test according to the type of defect and the type of maintenance or repair performed if:

(1) The tank car shows evidence of abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that may make the tank car unsafe for transportation,

(2) The tank car was in an accident and shows evidence of damage to an extent that may adversely affect its capability to retain its contents or to otherwise remain railworthy.

(3) The tank bears evidence of damage caused by fire. (4) The Associate Administrator for Railroad Safety, FRA, requires it based on the existence of an objectively reasonable and articulable belief that a tank car or a class or design of tank cars may be in an unsafe operating condition.

(c) * * *

(3) Fusion welded tank cars must be inspected and tested to be qualified and maintained in accordance with the following table. All qualification requirements need not be done at the same time or at the same facility.

FREQUENCY OF QUALIFICATION INSPECTION AND TESTS

Section 180.509(*)	Description	Maximum interval
D	Visual inspection	10 years.
E	Structural integrity inspection	10 years.
F	Thickness test	See § 180.509(f).
H	Safety Systems	10 years.
I	Internal coating or lining (for materials corrosive or reactive to the tank) (See definitions at § 180.503).	See § 180.509(i).
J	Leakage pressure test	After reassembly.
K	Service equipment (including pressure relief device)	See § 180.509(k).

(d) *Visual inspection.* At a minimum, each tank car facility must visually inspect the tank externally and internally as follows:

(1) An internal inspection of the tank shell and heads for abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that makes the tank car unsafe for transportation, and except in the areas where insulation or a thermal protection system precludes it, an external inspection of the tank shell and heads for abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that makes the tank car unsafe for transportation, and for DOT 115 class tank cars, an internal inspection of the inner container and external inspection of the outer shell and heads for defects in welds, or any other condition that may make the tank car unsafe for transportation;

(2) When an internal coating or lining, head protection, insulation, or thermal protection is removed in part or in whole, the internal and external exposed surface of the tank must be visually inspected for defects in welds or any other condition that may make the tank car unsafe for transportation, and this inspection must precede any application or reapplication of a coating or lining;

(3) An inspection of the service equipment, including gaskets, for indications of corrosion and other conditions that may make the tank car unsafe for transportation;

(4) An inspection for missing or loose bolts, nuts, or elements that may make the tank car unsafe for transportation;

(5) An inspection of all closures on the tank car for conditions that may make the tank car unsafe for transportation, including an inspection of the protective housings for proper condition;

(6) An inspection of excess flow valves with threaded seats for tightness; and

(7) An inspection of the required markings on the tank car for legibility.

(e) *Structural integrity inspections and tests.* (1) Each tank car owner must ensure the structural elements on the tank car qualify with the applicable requirements of this subchapter. At a minimum, the structural integrity inspection and test must include:

(i) All transverse fillet welds greater than 0.64 cm (0.25 inch) within 121.92 cm (4 feet) of the bottom longitudinal centerline except body bolster pad attachment welds;

(ii) The termination of longitudinal fillet welds greater than 0.64 cm (0.25 inch) within 121.92 cm (4 feet) of the bottom longitudinal centerline; and

(iii) The tank shell butt welds within 60.96 cm (2 feet) of the bottom longitudinal centerline, unless the tank car owner can determine by analysis (e.g., finite element analysis, damage-tolerance analysis, or service reliability assessment) that the structure will not develop defects that reduce the design level of safety and reliability or fail within its operational life or prior to the next required inspection. The owner must maintain all documentation used to make such determination at its principal place of business and make the data available to FRA or an authorized representative of the Department upon request.

(2) For DOT 115 class tanks, paragraphs (e)(1)(i) through (iii) of this section apply only to the outer shell fillet welds and to the non-reinforced exposed outer shell butt welds.

(3) The inspection requirements of paragraph (e)(1)(iii) of this section do not apply to reinforced tank shell butt welds until the time of lining removal or application for tank cars with an internal lead, glass, or rubber lining.

(4) Each tank car facility must inspect and test the elements identified in paragraph (e)(1) of this section by one or more of the following methods:

(i) Dye penetrant testing (PT);

(ii) Radiographic examination (RT);

(iii) Magnetic particle testing (MT);

(iv) Ultrasonic testing (UT); and

(v) Direct, remote, or enhanced visual inspection, using, for example, magnifiers, fiberscopes, borescopes, and/or machine vision technology (VT).

(f) *Thickness tests.* (1) The tank car owner must ensure that each tank car facility measures the thickness of the tank car shell, heads, sumps, protective housing (i.e., domes), and nozzles on each tank car by using a device capable of accurately measuring the thickness to within ±0.05 mm (±0.002 inch).

(2) The tank car owner must ensure that each tank car has a thickness test measurement:

(i) At the time of an internal coating or lining application or replacement, or

(ii) At least once every ten (10) years for a tank that does not have an internal coating or lining, or

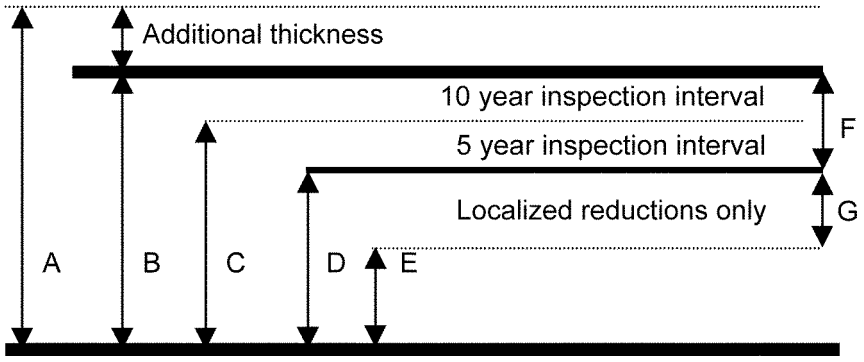
(iii) At least once every five (5) years for a tank that does not have an internal coating or lining when:

(A) The tank is used to transport a material that is corrosive or reactive to the tank (see Appendix D of this part) or service equipment as defined § 180.503, and

(B) The remaining shell and head thickness is tested and determined to be at or below line C in Figure A of this paragraph.

Figure A

Tank and Shell Thickness Qualification Frequencies



Where:

A. As-built tank shell or head thickness with additional thickness.
B. Required minimum tank shell or head thickness after forming per part 179.
C. Inspection frequency adjustment point (design minimum shell or head thickness, minus ½ of the table value in paragraph (g) of this section).
D. Condemning limit for general corrosion (required minimum shell or head thickness, minus the value in paragraph (g) of this section).
E. Condemning limit for localized corrosion (required minimum shell or head thickness, minus the table value in paragraph (g) of this section, minus 1.58 mm (1/16 inch)). See Note 1 in paragraph (g) of this section for diameter limitations and minimum separation distances.
F. Allowable shell or head thickness reduction (table value in paragraph (g) of this section).
G. Additional thickness reduction for localized areas in paragraph (g) of this section.

(3) For a localized repair of an internal coating or lining where a material corrosive to the tank or service equipment as defined § 180.503 has contacted the tank, a qualified individual must verify the coating or lining's conformance with paragraph (g) of this section by measuring the shell or head in the area of the repair. The thickness test applies only to the non-lined or coated repaired area, and is not a qualification event. Modification of the tank stencil is not required.

(4) Operation of a tank car below the condemning limit for general corrosion or the condemning limit for localized corrosion (as shown in Figure A of this section) is prohibited.

(5) For sumps, protective housing (i.e., domes), nozzles, and nozzle reinforcing pads, the tank car owner must determine if any reduction in wall thickness affects the design levels of reliability and safety built into sump, protective housing, nozzle, or nozzle reinforcement. Each tank car owner must maintain at its principal place of business documentation describing the allowable thickness reductions for sumps, protective housings, and nozzles, and nozzle reinforcements. This documentation must be made available to FRA or an authorized representative of the Department upon request.

(6) After repairs, alterations, conversions, modifications, or blasting of tank car that results in a reduction of the tank's thickness, and anytime a tank car coating or lining is removed, a qualified individual must measure the thickness of the tank in the area of reduced thickness to ensure that the thickness of the tank conforms to paragraph (g) of this section.

(g) *Service life thickness allowance.* (1) A tank car found with a thickness below the required minimum thickness after forming for its specification, as stated in part 179 of this subchapter, may continue in service if any reduction in the required minimum thickness is not more than that provided in the following table:

ALLOWABLE SHELL THICKNESS REDUCTIONS

Marked tank test pressure	Top shell and tank head	Bottom shell
60 psig < 200 psig	3.17 mm	1.58 mm.
	1/8 inch	1/16 inch.
≥200 psig	0.79 mm	0.79 mm.
	1/32 inch	1/32 inch.

Note 1. A tank car owner may add an extra 1.58 mm (1/16 inch) to the values in the table for local reductions. Local reductions are those that do not exceed 20.32 linear centimeters (8 linear inches) measured at the longest diameter, and are separated from the other local reductions by at least 40.64 cm (16 inches).

Note 2. Any reduction in the tank car shell thickness may not affect the structural strength of the tank car to the extent that the tank car no longer conforms to the applicable provisions of Section 6.2 of the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter).

Note 3. For DOT 115 class tank cars, shell thickness reductions apply only to the outer shell of the tank car. There is no shell or head thickness reduction authorized for the inner tank.

(2) [Reserved]

(h) *Safety system inspections.* Each tank car owner must ensure qualification of the tank car safety systems. However, inspections of foam or cork insulation systems are not required.

(i) *Internal coating and lining inspection and test.* (1) At a minimum, the owner of an internal coating or lining applied to protect a tank used to transport a material that is corrosive or reactive to the tank must ensure an inspection adequate enough to detect defects or other conditions that could reduce the design level of reliability and safety of the tank is performed. In addition, the owner of a coating or lining of tank cars used to transport hazardous materials must ensure the lining complies with § 173.24(b)(2) and (b)(3) of this subchapter.

(2) The owner of the internal coating or lining must establish and maintain a record of the service life of the coating or lining and commodity combination, that is, the specific hazardous materials that were loaded into a tank and the coating or lining in place at the time of loading. The owner of the internal coating or lining must use its knowledge of the service life of each coating or lining and commodity combination to establish an appropriate inspection interval for that coating or lining and commodity combination. This interval must not exceed eight (8) years, unless the coating or lining owner can establish, document, and show that the service history or scientific analysis of the coating or lining and commodity pairing supports a longer inspection interval. The owner must maintain at its principal place of business a written procedure for collecting and documenting the performance of the coating or lining applied within the tank car for its service life. The internal coating or lining owner must provide this documentation, including inspection and test, repair, removal, and application procedures, to the FRA or car owner upon request. Further, the offeror must provide commodity information to the car owner and the owner of the internal coating or lining upon request.

(3) The owner of the internal coating or lining must provide the test method and acceptance criteria to the tank car owner and to the person responsible for qualifying the coating or lining. The tank car facility inspecting and testing the internal coating or lining must follow the inspection and test procedure, including the acceptance requirements, established by the internal coating or lining owner.

(j) *Leakage pressure test.* Unless the design of the service equipment arrangement precludes it (e.g., there is no fitting to pressurize the tank), each owner of a tank car must ensure that the tank, service equipment, and closures installed, replaced, or reinstalled on the tank car are leak tested. The test may be conducted with the lading in the tank. When the test pressure exceeds the start-to-discharge or burst pressure of a pressure relief device, the device must be rendered inoperative. The written procedures and test method for leak testing must ensure the sensitivity and reliability of the test method to prevent premature failure. This section does not apply to facilities that remove closures for the sole purpose of loading or unloading the lading (e.g., blind flanges, pipe plugs, etc.).

(k) *Service equipment inspection and test.* (1) Each tank car owner must ensure the qualification of tank car service equipment at least once every ten (10) years. The tank car owner must analyze the service equipment inspection and test results for any given lading and, based on the analysis, adjust the inspection and test frequency to ensure that the design level of reliability and safety of the equipment is met. The owner must maintain at its principal place of business all supporting documentation used to make such analyses and inspection and test frequency adjustments. The supporting documentation must be made available to FRA or an authorized representative of the Department upon request.

(2) Each tank car facility must qualify service equipment, including reclosing pressure relief devices and interior heater systems in accordance with the applicable provisions of Appendix D of the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter).

(l) *Alternative inspection and test procedures.* When approved by the Associate Administrator for Railroad Safety, FRA, a tank car owner, or a coating or lining owner may use an alternative inspection and test procedure or interval based on a damage-tolerance analysis (that must include a determination of the probable locations and modes of damage due to fatigue, corrosion, and accidental damage), or based on a service reliability assessment (that must be supported by analysis of systematically collected data) in lieu of the other requirements of this section.

* * * * *

■ 26. In § 180.511, revise the introductory paragraph, paragraph (d) and (g) and paragraph (h) is added to read as follows:

§ 180.511 Acceptable results of inspections and tests.

Provided it conforms to other applicable requirements of this subchapter, a tank car is qualified for use if it successfully passes the inspections and tests set forth below conducted in accordance with this subpart. A representation of that qualification must consist of marking the tank in accordance with § 180.515.

* * * * *

(d) *Safety system inspection.* A tank car successfully passes the safety system inspection when each thermal protection system, tank head puncture resistance system, coupler vertical restraint system, and system used to protect discontinuities (e.g., breakage grooves on bottom outlets and protective housings) on the tank car conform to this subchapter and show no indication of a defect that may reduce reliability before the next inspection and test interval.

* * * * *

(g) *Hydrostatic test.* A Class 107 tank car, the inner tank of a Class 115 tank car, or a riveted tank car successfully passes the hydrostatic test when it shows no leakage, distortion, excessive permanent expansion, or other evidence of weakness that might render the tank car unsafe for transportation service.

(h) *Service equipment.* A tank car successfully passes the service equipment inspection and test when this equipment conforms to this subchapter and applicable provisions of Appendix D of the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter), and shows no indication of a defect that may reduce reliability during the qualification interval.

■ 27. Revise § 180.513 to read as follows:

§ 180.513 Repairs, alterations, conversions, and modifications.

(a) To work on tank cars, a tank car facility must comply with the applicable requirements of this subpart, the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter), and the owner's requirements.

(b) *Responsibilities of Tank Car Facility.* A tank car facility must obtain the permission of the equipment owner before performing work affecting alteration, conversion, repair, or qualification of the owner's equipment. For the purposes of qualification and maintenance, the tank car facility must use the written instructions furnished

by the owner or have written confirmation from the owner allowing the use of written instructions furnished by the owner or have written confirmation from the owner allowing the use of written instructions furnished by another. A tank car facility must not use, copy distribute, forward or provide to another person the owner's confidential and proprietary written instructions, procedures, manuals, and records without the owner's permission. A tank car facility must report all work performed to the owner. The tank car facility must also report observed damage, deterioration, failed components, or non-compliant parts to the owner. A tank car facility must incorporate the owner's Quality Assurance Program into their own Quality Assurance Program.

(c) Unless the exterior tank car shell or interior tank car jacket has a protective coating, after a repair that requires the complete removal of the tank car jacket, the exterior tank car shell and the interior tank car jacket must have a protective coating applied to prevent the deterioration of the tank shell and tank jacket. Previously applied coatings that still provide effective protection need not be covered over.

(d) After repair, replacement, or qualification of tank car service equipment, the tank service equipment must successfully pass the leak test prescribed in § 180.509(j).

■ 29. In § 180.515, paragraphs (a), (b), and (c) are revised to read as follows:

§ 180.515 Markings.

(a) When a tank car passes the required inspection and test with acceptable results, the tank car facility must mark the date of the inspection and test and due date of the next inspection and test qualified on the tank car in accordance with the applicable provisions of Appendix C of the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter). When a tank car facility performs multiple inspections and tests at the same time, one date may be used to satisfy the requirements of this section. One date also may be shown when multiple inspections and tests have the same due date. Dates displayed on the ''consolidated stencil'' (see the applicable provisions of Appendix C of the AAR Specifications for Tank Cars) take precedence over dates modified, and not stenciled, pursuant to interval adjustments for service equipment, linings, and granted alternative inspection intervals.

(b) Converted DOT 105, 109, 112, 114, or 120 class tank cars must have the new specification and conversion date permanently marked in letters and figures at least 0.95 cm (0.375 inch) high on the outside of the manway nozzle or the edge of the manway nozzle flange on the left side of the car. The marking may have the last numeral of the specification number omitted (e.g., ''DOT 111A100W'' instead of ''DOT 111A100W1'').

(c) When qualified within six months of installation and protected from deterioration, the test date marking of a reclosing pressure relief device is the installation date on the tank car.

■ 29. In § 180.517, paragraphs (a) and (b) are revised to read as follows:

§ 180.517 Reporting and record retention requirements.

(a) *Certification and representation.* Each owner of a specification tank car must retain the certificate of construction (AAR Form 4–2) and related papers certifying that the manufacture of the specification tank car identified in the documents is in accordance with the applicable specification. The builder's signature on the certificate of construction and the marking of the tank car with the tank specification is the representation that all of the appropriate inspections and tests were successfully performed to qualify the tank for use. The owner must retain the documents throughout the period of ownership of the specification tank car and for one year thereafter. Upon a change of ownership, the applicable provisions prescribed in Section 1.3.15 of the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter) apply. The builder of the car or a facility performing work on the car may retain copies of relevant records.

(b) *Inspection and test reporting.* Each tank car that is inspected and tested as specified in § 180.509 must have a written report, in English, prepared according to this paragraph. Marking the tank car with the specification (or retaining the specification marking on the tank) is the representation that all of the appropriate inspections and tests were performed and the results meet the tank car owner's acceptance criteria to qualify the car for continued use. The report may be created and retained electronically, but, upon request by FRA for a copy of the report, it must be made available in common readable form. The owner must retain a copy of the inspection and test reports until successfully completing the next inspection and test of the same type. The inspection and test report must include the following:

(1) Type of inspection and test performed (a checklist is acceptable);

(2) The results of each inspection and test performed;

(3) Tank car reporting mark and number;

(4) Tank car specification;

(5) Inspection and test date (month and year);

(6) Location and description of defects found and method used to repair each defect;

(7) The name and address of the tank car facility and the name and signature of inspector; and

(8) The unique code (station stencil) identifying the facility.

■ 30. Appendix D to Part 180 is added to read as follows:

Appendix D to Part 180—Hazardous Materials Corrosive to Tanks or Service Equipment

This list contains materials identified either by proper shipping name in 49 CFR 172.101 or shipped under an ''n.o.s.'' shipping description that, under certain conditions, can corrode carbon steel tanks or service equipment at a rate that may reduce the design level of reliability and safety of the tank or equipment to an unsafe level before the next qualification. Materials identified on this list are considered corrosive to the tank or service equipment.

While every effort was made to identify materials deemed corrosive to the tank or service equipment, owners and operators are cautioned that this list may not be inclusive. Tank car owners and operators are reminded of their duty to ensure that no in-service tank will deteriorate below the specified minimum thickness requirements in this subchapter. See § 180.509(f)(3). In addition, FRA states a tank car owner must designate an internal coating or lining appropriately based on its knowledge of the chemical and not rely simply on this list. Regarding future thickness tests, this list may also be modified based on an analysis of the test results by the car owner, the Department of Transportation, or the Association of American Railroads' Tank Car Committee.

Hazardous Materials Table Proper Shipping Names (See § 172.101)

Acetic acid, glacial or Acetic acid solution
Aluminum chloride, solution
Arsenic acid, liquid
Arsenic acid, solid
Butyric acid
Ferric chloride, solution
Fertilizer ammoniating solution (*Nitrogen fertilizer solution*)
Fluoroboric acid
Fluorosilicic acid
Formaldehyde, solutions, flammable
Formaldehyde, solutions
Hydrobromic acid
Hydrochloric acid
Hydrochloric acid solution
Hydrofluoric acid and Sulfuric acid mixtures
Hydrofluoric acid
Hydrogen peroxide and peroxyacetic acid mixtures, stabilized
Hydrogen, peroxide, aqueous solutions
Hydrogen peroxide, stabilized *or* Hydrogen peroxide aqueous solutions, stabilized

Hypochlorite solutions
Nitric acid
Phenyl phosphorus dichloride
Phenyl phosphorus thiodichloride
Phosphoric acid solution
Phosphoric acid, solid
Phosphorus trichloride (*Phosphorus chloride*)
Sodium chlorate
Sodium chlorate, aqueous solution
Sodium hydrosulfide
Sulfur, molten
Sulfuric acid
Sulfuric acid, fuming
Sulfuric acid, spent
Zinc chloride, anhydrous
Zinc chloride, solution

Materials Transported Under an ''N.O.S.'' Description

Benzoic acid (Environmentally hazardous substance, liquid, n.o.s., (RQ 5,000 pounds)
Bisulphites, aqueous solution, n.o.s. (Ammonium bisulfide)
Black liquor (Corrosive liquids, n.o.s. (contains sulfuric acid))
Calcium lignosulfonate (not regulated under this subchapter)
Hexanoic acid (Corrosive liquids, n.o.s. (contains hexanoic acid))
Lignin liquor (not regulated under this subchapter)
Lithium chloride (not regulated under this subchapter)
Sodium polyacrylate (not regulated under this subchapter)
Titanium sulfate solution (Corrosive liquids, n.o.s. (contains sulfuric acid))
White liquor (not regulated under this subchapter)

Issued in Washington, DC, on June 5, 2012, under authority delegated in 49 CFR Part 106.

Cynthia Quarterman,

Administrator, Pipeline and Hazardous Materials Safety Administration.

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FEDERAL REGISTER

Vol. 77 Monday,
No. 122 June 25, 2012

Part III

The President

Notice of June 22, 2012—Continuation of the National Emergency With Respect to the Western Balkans

Federal Register
Vol. 77, No. 122
Monday, June 25, 2012

Presidential Documents

Title 3—

The President

Notice of June 22, 2012

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, the President declared a national emergency with respect to the Western Balkans, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The President subsequently amended that order in Executive Order 13304 of May 28, 2003.

Because the actions of persons threatening the peace and international stabilization efforts in the Western Balkans continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2012. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
Washington, June 22, 2012.

[FR Doc. 2012–15671
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S. 292/P.L. 112–133

Salmon Lake Land Selection Resolution Act (June 15, 2012; 126 Stat. 380)

S. 363/P.L. 112–134

To authorize the Secretary of Commerce to convey property of the National Oceanic and Atmospheric Administration to the City of Pascagoula, Mississippi, and for other purposes. (June 15, 2012; 126 Stat. 382)

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