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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.

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 404

[EXIM–OIG–2012–0010]

RIN 3048–AA02

Privacy Act of 1974: Implementation of Exemptions; Export-Import Bank of the United States Office of Inspector General—EIB–35—Office of Inspector General Investigative Records; Correction

AGENCY: Office of the Inspector General, Export-Import Bank of the United States.

ACTION: Final rule; correction.

SUMMARY: The Export-Import Bank of the United States (hereafter known as ''Ex-Im Bank'') published in the **Federal Register** of July 17, 2012, a final rule to exempt portions of a system of records from one or more provisions of the Privacy Act. This document corrects an inaccurate amendatory instruction.

DATES: Effective August 16, 2012.

FOR FURTHER INFORMATION CONTACT: Osvaldo Gratacos, Ex-Im Bank, Office of Inspector General, 811 Vermont Avenue NW., Rm. 976, Washington, DC 20571 or by telephone (202) 565–3908 or facsimile (202) 565–3988.

SUPPLEMENTARY INFORMATION: The Ex-Im Bank published a document on July 17, 2012 (77 FR 41885–41886) exempting portions of a system of records entitled ''EIB–35—Office of Inspector General Investigative Records'' from one or more provisions of the Privacy Act. The document incorrectly added § 404.24 to subpart B of 12 CFR part 404. Section 404.24 currently exists in subpart C. The instruction should have revised 404.24, not added it.

Accordingly, in rule FR Doc. 2012–17382 published on July 17, 2012 (77 FR 41885–41886), make the following correction.

1. On page 41886, in the first column, amendatory instruction 2 is corrected to read as follows:

''2. Section 404.24 is revised to read as follows:''

Dated: July 17, 2012.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–17896 Filed 7–20–12; 8:45 am]

BILLING CODE 6690–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2012–0485; Special Conditions No. 23–258–SC]

Special Conditions: Tamarack Aerospace Group, Cirrus Model SR22; Active Technology Load Alleviation System (ATLAS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Tamarack Aerospace Group's modification to the Cirrus SR22 airplane. This airplane as modified by Tamarack will have a novel or unusual design feature(s) associated with Tamarack Aerospace Group's modification. The design change will install winglets and an Active Technology Load Alleviation system (ATLAS). The addition of the ATLAS mitigates the negative effects of the winglets by effectively aerodynamically turning off the winglet under limit gust and maneuver loads. This is accomplished by measuring the aircraft loading and moving a small aileron-like device called a Tamarack Active Control Surface (TACS). The TACS movement reduces lift at the tip of the wing, resulting in the wing center of pressure moving inboard, thus reducing bending stresses along the wing span. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* July 13, 2013.

FOR FURTHER INFORMATION CONTACT: For sections 23.301 through 23.629 (structural requirements), contact Mr. Mike Reyer, telephone (816) 329–4131. For sections 23.672 through 23.701 (control system requirements), contact Mr. Ross Schaller, telephone (816) 329–4162. The address and facsimile for both Mr. Reyer and Mr. Schaller is: Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Kansas City, Missouri 64106; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2011, Tamarack Aerospace Group applied for a supplemental type certificate for installation of winglets and an Active Technology Load Alleviation System (ATLAS) on the Cirrus Model SR22 (serial numbers 0002–2333, 2335–2419, and 2421–2437). The Cirrus Model SR22 is a certified, single reciprocating engine, four-passenger, composite airplane.

The installation of winglets, as proposed by Tamarack, increases aerodynamic efficiency. However, the winglets by themselves also increase wing static loads and the wing fatigue stress ratio, which under limit gust and maneuver loads factors may exceed the certificated wing design limits. The addition of ATLAS mitigates the negative effects of the winglets by effectively aerodynamically turning off the winglet at elevated gust and maneuver loads factors.

The ATLAS functions as a load-relief system. This is accomplished by measuring aircraft loading via an accelerometer, and by moving a small aileron-like device called a Tamarack Active Control Surface (TACS) that reduces lift at the tip of the wing. Because the ATLAS compensates for the increased wing root bending at elevated load factors, the overall effect of this modification is that the winglet can be added to the Cirrus wing without the traditionally required reinforcement of the existing structure. This is the first application of an active loads alleviation system on a part 23 aircraft and the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature.

Type Certification Basis

Under the provisions of § 21.101, Tamarack Aerospace Group must show that the Cirrus Model SR22, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate Data Sheet A00009CH or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate Data Sheet A00009CH (Serial Numbers (S/Ns) 0002 through 2333, 2335 through 2419, and 2421 through 2437) are as follows:

14 CFR part 23 of the Federal Aviation Regulations, effective February 1, 1965, as amended by 23–1 through 23–53, except as follows:

14 CFR 23.301 through Amendment 42

14 CFR 23.855, 23.1326, 23.1359 not applicable

14 CFR part 36, dated December 1, 1969, as amended by 36–1 through 36–22

Except for:

Increase in amendment level from the cirrus Model SR22 certification basis for Regulation 14 CFR 23.301 through amendment 23–42 to: 14 CFR 23.301 through Amendment 23–48.

Addition of regulation 14 CFR 23.1306 through Amendment 23–61.

Addition of regulation 14 CFR 23.1308 through Amendment 23–57.

Change in Cirrus Model SR22 certification basis for regulation 14 CFR 23.1359 through Amendment 23–49 from: Not Applicable to: Applicable

Equivalent Level of Safety (ELOS) Findings

ACE–96–6 for 14 CFR Section 23.221 (Spinning); refer to FAA Memorandum, dated June 10, 1998, for Models SR20, SR22.

ACE–00–09 for 14 CFR 23.1143(g) (Engine Controls) and 23.1147(b) (Mixture Controls) Refer to FAA Memorandum, dated September 11, 2000, for Model SR22.

ACE–01–01 for 14 CFR 23.1143(g) (Engine Controls) and 23.1147(b) (Mixture Controls); Refer to FAA Memorandum, dated February 14, 2001, for Model SR20.

Special Conditions

23–ACE–88 for ballistic parachute for Models SR20, SR22.

23–134–SC for protection of systems for High Intensity Radiated Fields continued: (HIRF), for Models SR20, SR22.

23–163–SC for inflatable restraint system. Addition to the certification basis Model SR20 effective S/N 1541 and subsequent; Model SR22 S/N 1500, 1520 and subsequent.

In addition, if the regulations incorporated by reference do not provide adequate standards regarding the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Cirrus SR22 complies with the following sections of 14 CFR part 23, as amended by Amendments 23–1 through 23–61 for the areas affected by the change.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the SR22 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the SR22 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 35 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38 and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The SR22 will incorporate the following novel or unusual design features:

Winglets with an Active Technology Load Alleviation System (ATLAS) that incorporates a small aileron-like device called a Tamarack Active Control Surface (TACS).

Discussion

Tamarack has applied for a Supplemental Type Certificate to install a winglet and ATLAS. The ATLAS is not a primary flight control system, a trim device, or a wing flap. However, there is definite applicability to ATLAS for several regulations under part 23, Subpart D—Control Systems, which might otherwise be considered ''Not Applicable'' under a strict interpretation of the regulations. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer.

Special conditions are also necessary for the effect of ATLAS on structural performance. These special conditions are intended to provide an equivalent level of safety for ATLAS as intended by part 23, Subpart C—Structure, and portions of part 23, Subpart D—Design and Construction.

Discussion of Comments

Notice of proposed special conditions No. 23–12–01–SC for the Cirrus SR22 airplanes was published on May 15, 2012 (77 FR 28530). No comments were received and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the SR22 (S/NS 0002 thru 2333, 2335 thru 2419, and 2421 thru 2437). Should Tamarack Aerospace Group apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate Data Sheet A00009CH to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Tamarack modified Cirrus SR22 is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cirrus Model SR22 airplanes (S/Ns 0002 through 2333, 2335 through 2419, and 2421 through 2437) modified by Tamarack Aerospace Group.

1. Active Load Alleviation Systems—Structural Requirements

(A) The following special conditions apply to airplanes equipped with load alleviation systems that either directly, or as a result of failure or malfunction, affect structural performance. These special conditions address the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. Any statistical or probability terms used in the following special conditions apply to the structural requirements only and do not replace, remove, or supersede other requirements, including those in part 23, subpart E. These criteria are only applicable to structure whose failure could prevent continued safe flight and landing.

(B) In addition to the requirements in 14 CFR part 23, § 23.301 Loads, comply with the following:

SC 23.301 Loads, Probability of Failure of Load Alleviation System

(a) Failures of the load alleviation system, including the annunciation system, must be immediately annunciated to the pilot or annunciated prior to the next flight. Failure of the load alleviation system, including the annunciation system, must be no greater than 1×10^{-5} per flight hour.

(b) If failure of the load alleviation system, including the annunciation system, is greater than 1×10^{-8} per flight hour, an independent system functional test must be accomplished at a periodic interval to limit time exposure to an undetected failed system. The time interval for the system functional test must be selected so that the product of the time interval in hours and the failure of the load alleviation system, including the annunciation system, is no greater than 1×10^{-5} per hour.

(c) Failures of the load alleviation system, including the annunciation system, must be reported to the FAA in a manner acceptable to the Administrator.

(C) In place of the requirements in 14 CFR part 23, § 23.303 Factor of Safety, comply with the following:

SC 23.303 Factor of Safety, Load Alleviation Systems

The airplane must be able to withstand the limit and ultimate loads resulting from the following scenarios:

(a) The loads resulting from 14 CFR part 23, §§ 23.321 through 23.537, as applicable, corresponding to a fully operative load alleviation system. A factor of safety of 1.5 must be applied to determine ultimate loads.

(b) If an independent system functional test is required by SC 23.301(b), the loads resulting from 14 CFR part 23, §§ 23.321 through 23.537, as applicable, corresponding to the system in the failed state without additional flight limitations or reconfiguration of the airplane. A factor of safety of 1.0 must be applied to determine ultimate loads.

(c) The loads corresponding to the time of occurrence of load alleviation system failure and immediately after the failure. These loads must be determined at any speed up to V_{NE}, starting from 1g level flight conditions, and considering realistic scenarios, including pilot corrective actions. A factor of safety of 1.5 must be applied to determine ultimate loads.

(d) For airplanes equipped with ''before the next flight'' failure annunciation systems, the loads resulting from 14 CFR part 23, §§ 23.321 through 23.537, as applicable, corresponding to the system in the failed state without additional flight limitations or reconfiguration of the airplane. A factor of safety of 1.25 must be applied to determine ultimate loads.

(e) For airplanes equipped with ''immediate'' failure annunciation systems, the loads resulting from 14 CFR part 23, §§ 23.321 through 23.537, as applicable, corresponding to the system in the failed state with additional flight limitations or reconfiguration of the airplane. A factor of safety of 1.0 must be applied to determine ultimate loads.

(D) In addition to the requirements in 14 CFR part 23, §§ 23.571 through 23.574, comply with the following:

SC 23.571 Through SC 23.574 Fatigue and Damage Tolerance

If any system failure would have a significant effect on the fatigue or damage evaluations required in §§ 23.571 through 23.574, then these effects must be taken into account. If an independent system functional test is required by SC 23.301(b), the effect on fatigue and damage evaluations resulting from the selected inspection interval must be taken into account.

(E) In addition to the requirements in 14 CFR part 23, § 23.629 Flutter, comply with the following:

SC 23.629 Flutter

(a) With the load alleviation system fully operative, compliance to 14 CFR part 23, § 23.629 must be shown. Compliance with § 23.629(f) must include the ATLAS control system and control surface.

(b) At the time of occurrence of load alleviation system failure and immediately after the failure, compliance with 14 CFR part 23, § 23.629(a) and (e) must be shown up to V_D/M_D without consideration of additional operating limitations or reconfiguration of the airplane.

(c) For airplanes equipped with ''before the next flight'' failure annunciation systems and the load alleviation system in the failed state, compliance to 14 CFR part 23, § 23.629 Flutter, paragraphs (a) and (e), must be shown up to V_D/M_D without consideration of additional operating limitations or reconfiguration of the airplane.

(d) For airplanes equipped with ''immediate'' failure annunciation systems and the load alleviation system in the failed state, compliance to 14 CFR part 23, § 23.629 Flutter, paragraphs (a) and (e), must be shown with consideration of additional operating limitations or reconfiguration of the airplane at speeds up to $V_D = 1.4 \times$ maximum speed limitation selected by the applicant.

2. Active Load Alleviation Systems—Control System Requirements.

(A) In place of 14 CFR part 23, § 23.672 Stability augmentation and automatic and power-operated systems requirement, comply with the following:

SC 23.672 Load Alleviation Systems

The load alleviation system must comply with the following:

(a) A warning, which is clearly distinguishable to the pilot under expected flight conditions without requiring the pilot's attention, must be provided for any failure in the load alleviation system or in any other automatic system that could result in an unsafe condition if the pilot was not aware of the failure. Warning systems must not activate the control system.

(b) The design of the load alleviation system or of any other automatic system must permit initial counteraction of failures without requiring exceptional pilot skill or strength, by either the deactivation of the system or a failed portion thereof, or by overriding the failure by movement of the flight controls in the normal sense.

(c) It must be shown that, while the system is active or after any single failure of the load alleviation system—

(1) The airplane is safely controllable when the failure or malfunction occurs at any speed or altitude within the approved operating limitations that is critical for the type of failure being considered;

(2) The controllability and maneuverability requirements of this part are met within a practical operational flight envelope (for example, speed, altitude, normal acceleration, and airplane configuration) that is described in the Airplane Flight Manual (AFM); and

(3) The trim, stability, and stall characteristics are not impaired below a level needed to permit continued safe flight and landing.

(B) In place of 14 CFR part 23, § 23.677 Trim systems requirement, comply with the following:

SC 23.677 Load Alleviation Active Control Surface

(a) Proper precautions must be taken to prevent inadvertent, improper, or abrupt Tamarack Active Control Surface (TACS) operation.

(b) The load alleviation system must be designed so that, when any one connecting or transmitting element in the primary flight control system fails, adequate longitudinal control for safe flight and landing is available.

(c) The load alleviation system must be irreversible unless the TACS is properly balanced and has no unsafe flutter characteristics. The system must have adequate rigidity and reliability in the portion of the system from the tab to the attachment of the irreversible unit to the airplane structure.

(d) It must be demonstrated that the airplane is safely controllable and that the pilot can perform all maneuvers and operations necessary to effect a safe landing following any probable powered system runaway that reasonably might be expected in service, allowing for appropriate time delay after pilot recognition of the system runaway. The demonstration must be conducted at critical airplane weights and center of gravity positions.

(C) In place of 14 CFR part 23, § 23.683 Operation tests requirement, comply with the following:

SC 23.683 Operation tests

(a) It must be shown by operation tests that, when the load alleviation system is active and operational and loaded as prescribed in paragraph (b) of this section, the system is free from—

(1) Jamming;

(2) Excessive friction; and

(3) Excessive deflection.

(b) The prescribed test loads are, for the entire system, loads corresponding to the limit airloads on the appropriate surface.

(D) In place of 14 CFR part 23, § 23.685 Control system details requirement, comply with the following:

SC 23.685 Control System Details

(a) Each detail of the Tamarack Active Control Surface (TACS) must be designed and installed to prevent jamming, chafing, and interference from cargo, passengers, loose objects, or the freezing of moisture.

(b) There must be means in the cockpit to prevent the entry of foreign objects into places where they would jam any one connecting or transmitting element of the system.

(c) Each element of the load alleviation system must have design features, or must be distinctively and permanently marked, to minimize the possibility of incorrect assembly that could result in malfunctioning of the control system.

(E) In place of 14 CFR part 23, § 23.697 Wing flap controls requirement, comply with the following:

SC 23.697 Load Alleviation System Controls

(a) The Tamarack Active Control Surface (TACS) must be designed so that, when the surface has been placed in any position, it will not move from that position unless the control is adjusted or is moved by the automatic operation of a load alleviation system.

(b) The rate of movement of the TACS in response to the automatic device must give satisfactory flight and performance characteristics under steady or changing conditions of airspeed, engine power, and attitude.

(F) In place of 14 CFR part 23, § 23.701 Flap interconnection requirement, comply with the following:

SC 23.701 Load Alleviation System Interconnection

(a) The load alleviation system and related movable surfaces as a system must—

(1) Be synchronized by a mechanical interconnection between the movable surfaces; or by an approved equivalent means; or

(2) Be designed so that the occurrence of any failure of the system that would result in an unsafe flight characteristic of the airplane is extremely improbable; or

(b) The airplane must be shown to have safe flight characteristics with any combination of extreme positions of individual movable surfaces.

Issued in Kansas City, Missouri, on July 13, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–17864 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0329; Directorate Identifier 2011–NM–139–AD; Amendment 39–17127; AD 2012–14–13]

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 certain Airbus Model A318–112 and –121 airplanes; Model A319–111, –112, –115, –132, and –133 airplanes; Model A320–214, –232, and –233 airplanes; and Model A321–211, –212, –213, and –231 airplanes. This AD was prompted by reports of some fuselage nuts found cracked. This AD requires an inspection to determine if certain fuselage nuts are installed, a detailed inspection for cracking of fuselage nuts having a certain part number, and related investigative and corrective actions if necessary. We are issuing this AD to detect and correct fuselage nuts found cracked, which could result in reduced structural integrity of the airplane.

DATES: This AD becomes effective August 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 27, 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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; 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 April 2, 2012 (77 FR 19567). That NPRM proposed to correct an

unsafe condition for the specified products. The MCAI states:

> During structural part assembly in Airbus production line, some nuts Part Number (P/N) ASNA2531–4 were found cracked. Investigations were performed to determine the batches of the affected nuts and had revealed that these nuts have been installed in production on the fuselage of aeroplanes listed in the applicability section of this [EASA] AD.
>
> Static, fatigue and corrosion tests were performed, which demonstrated that no immediate maintenance action is necessary. However, a large number of these nuts are fitted on primary structural elements, which could have long-term consequences.
>
> This condition, if not corrected, could impair the structural integrity of the affected aeroplanes.
>
> For the reasons described above, this [EASA] AD requires [an inspection to determine if certain fuselage nuts are installed,] a detailed inspection [for cracking] of the affected nuts, associated corrective actions, [general visual inspection for scratching of the hole if necessary] depending on findings, and replacement of the affected P/N ASNA2531–4 nuts with new ones, having the same P/N.
>
> * * * * *

Required actions include related investigative and corrective actions if necessary. Related investigative actions include a general visual inspection for scratching of the hole. Corrective actions include replacing the fastener and installing a new fuselage nut. 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 19567, April 2, 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 152 products of U.S. registry. We also estimate that it will take about 15 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 $193,800, or $1,275 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing $362, for a cost of $1,212 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 19567, April 2, 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:

2012–14–13 Airbus: Amendment 39–17127. Docket No. FAA–2012–0329; Directorate Identifier 2011–NM–139–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A318–112 and –121 airplanes; Model A319–111, –112, –115, –132, and –133 airplanes; Model A320–214, –232, and –233 airplanes; and Model A321–211, –212, –213, and –231 airplanes; certificated in any category; manufacturer serial numbers 3339, 3340, 3350, 3355, 3360, 3367, 3369, 3372, 3380, 3382, 3385, 3387, 3388, 3390, 3393, 3395, 3397 through 3508 inclusive, 3510 through 3519 inclusive, 3522, 3523, 3525, 3527, 3529, 3530, 3537, 3539, 3542, 3544, 3546, 3548, 3552, and 3555.

(d) Subject

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

(e) Reason

This AD was prompted by reports of fuselage nuts found cracked. We are issuing this AD to detect and correct fuselage nuts found cracked, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Inspection and Replacement

Within 72 months since first flight of the airplane or within 90 days after the effective date of this AD, whichever occurs later, do an inspection for nuts having part number (P/N) ASNA2531–4 located in the fuselage. If a nut having P/N ASNA2531–4 is found, before further flight, do a detailed inspection for cracking of the nut, and all applicable related investigative and corrective actions, in

accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1218, Revision 01, including Appendices 01 and 02, dated June 17, 2010. If any cracking is found, before further flight, repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1218, Revision 01, including Appendices 01 and 02, dated June 17, 2010.

(h) Reporting

Submit a report of the findings of the inspection required by paragraph (g) of this AD to Airbus in accordance with Appendix 01 of Airbus Service Bulletin A320–53–1218, Revision 01, including Appendices 01 and 02, dated June 17, 2010, at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for inspections and replacements required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–53–1218, including Appendices 01 and 02, dated February 8, 2010.

(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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–1405; 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.

(k) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0120R1, dated July 13, 2011; and Airbus Service Bulletin A320–53–1218, Revision 01, including Appendices 01 and 02, dated June 17, 2010; 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) Airbus Service Bulletin A320–53–1218, Revision 01, including Appendices 01 and 02, dated June 17, 2010.

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

(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 July 5, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–17389 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0730; Directorate Identifier 2012–SW–048–AD; Amendment 39–17124; AD 2012–14–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Vertol (Type Certificate Currently Held by Columbia Helicopters, Inc. (CHI)) and Kawasaki Heavy Industries, Limited Helicopters (Kawasaki)

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for CHI Model 107–II and Kawasaki Model KV107–II and KV107–IIA helicopters. This AD requires, before further flight, replacing certain upper collective pitch control yoke bolts. This AD is prompted by three failures of the affected bolts. These actions are intended to prevent failure of an upper collective pitch control yoke bolt (bolt), excessive vibration, migration of the shafts, and subsequent loss of control of the helicopter.

DATES: This AD becomes effective August 7, 2012.

We must receive comments on this AD by September 21, 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 Columbia Helicopters, Inc.; 14452 Arndt Road NE., Aurora, OR 97002; telephone (503) 678–1222; email *ContactEngineering@colheli.com;* or at *www.ColHeli.com.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aviation Safety Engineer, Seattle Aircraft Certification Office, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057; telephone (425) 917–6426; email *kathleen.arrigotti@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

We are adopting a new AD for CHI Model 107–II and Kawasaki Model KV107–II and KV107–IIA helicopters. This AD requires replacing certain part-numbered bolts. The bolts are located in the forward and aft rotor upper collective pitch control assemblies. Upon failure, the yoke bolt head shears off, allowing shafts around the bolt to migrate out of place. If the shaft migrates fully out of place, the rotor pitch cannot be controlled. This AD is prompted by multiple failures of the affected bolts at low flight hours. These actions are intended to prevent failure of a bolt, excessive vibration, migration of the shafts, and subsequent loss of control of the helicopter.

FAA's Determination

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

Related Service Information

CHI issued Service Bulletin No. 107–27–0005 (SB), Revision 0, dated April 26, 2012. The SB specifies replacing all bolts, part number (P/N) 107C2733–1 and P/N 107C2733–2, with bolts, P/N C07C2700–1. The SB also specifies modifying spare assemblies, daily inspections of the yoke bolt retaining nut, and recurring 35-hour inspections of the bolt.

AD Requirements

This AD requires, before further flight, replacing all affected bolts with airworthy bolts, P/N C07C2700–1, and torquing the nut to 450–500 in-lbs. This AD also prohibits installing washer P/N A02C3112–13 with bolt P/N C07C2700–1, and installing bolt P/N 107C2733–1 and P/N 107C2733–2 on any helicopter.

Differences Between This AD and the Service Information

The CHI SB requires a repetitive daily inspection of the yoke bolt retaining nut, and a repetitive 35-hour inspection of the bolts after replacement. This AD does not require those inspections. The SB also specifies modifying spare assemblies. This AD does not address parts that are not installed.

Costs of Compliance

We estimate that this AD will affect 12 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD: Replacing the bolts will take 4 hours at an average labor rate of $85 per work hour. Required parts will cost $2,000. The total cost per helicopter is $2,340 and the total cost for the entire U.S. fleet is $28,080.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments before adopting these AD requirements would delay implementing the safety actions needed to correct a previously described known critical unsafe condition, which can adversely affect the structural integrity and controllability of the helicopter. 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 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):

2012–14–10 Boeing Vertol (Type Certificate Currently Held by Columbia Helicopters, Inc.) and Kawasaki Heavy Industries, Limited Helicopters: Amendment 39–17124; Docket No. FAA–2012–0730; Directorate Identifier 2012–SW–048–AD.

(a) Applicability

This AD applies to Boeing Vertol (type certificate currently held by Columbia Helicopters, Inc. (CHI)) Model 107–II and Kawasaki Heavy Industries, Limited Model KV107–II and KV107–IIA helicopters with an upper collective pitch control assembly, part number (P/N) 107CK003–2 or 107CK002–2, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of an upper collective pitch control yoke bolt (bolt). This condition could result in excessive vibration, migration of the shafts, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective August 7, 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

Before further flight, replace bolts, P/N 107C2733–1 and P/N 107C2733–2, with airworthy bolts, P/N C07C2700–1. Torque each nut to 450–500 in-lbs. Do not install a washer, P/N A02C3112–13 with a bolt, P/N C07C2700–1. Do not install bolts, P/N 107C2733–1 and P/N 107C2733–2, on any helicopter.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Kathleen Arrigotti, Aviation Safety Engineer, Seattle Aircraft Certification Office, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057; telephone (425) 917–6426; email *9-ANM-Seattle-ACO-AMOC-Requests@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 EAD through an AMOC.

(g) Additional Information

CHI Service Bulletin No. 107–27–0005 (SB), Revision 0, dated April 26, 2012, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Columbia Helicopters, Inc.; 14452 Arndt Road NE., Aurora, OR 97002; telephone (503) 678–1222; email *ContactEngineering@colheli.com;* or at *www.ColHeli.com*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6230 Main Rotor Mast/Swashplate.

Issued in Fort Worth, Texas, on July 5, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–17278 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0271; Directorate Identifier 2011–NM–196–AD; Amendment 39–17118; AD 2012–14–04]

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–8–100, DHC–8–200, and DHC–8–300 series airplanes. This AD was prompted by reports of hydraulic accumulator screw cap or end cap failure. This AD requires replacing the affected parking brake accumulator. We are issuing this AD to prevent failure of the parking brake accumulator screw caps or end caps, which could result in loss of the number 2 hydraulic system and damage to airplane structures, and could potentially have an adverse effect on the controllability of the airplane.

DATES: This AD becomes effective August 27, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 27, 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 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 21, 2012 (77 FR 16488). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Seven cases of on-ground hydraulic accumulator screw cap or end cap failure have been experienced on CL–600–2B19 (CRJ) aeroplanes, resulting in loss of the associated hydraulic system and high-energy impact damage to adjacent systems and structure. To date, the lowest number of flight cycles accumulated at the time of failure has been 6991.

Although there have been no failures to date on any DHC–8 aeroplanes, similar accumulators to those installed on the CL–600–2B19, Part Numbers (P/N)0860162001 and 0860162002 (Parking Brake Accumulator), are installed on the aeroplanes listed in the Applicability section of this [TCCA] directive.

A detailed analysis of the systems and structure in the potential line of trajectory of a failed screw cap/end cap for the accumulator has been conducted. It has identified that the worst-case scenarios would be the loss of number 2 hydraulic system, and damage to aeroplane structures.

This [TCCA] directive gives instructions to determine the part number and serial number of the existing parking brake accumulator, and where applicable, replace the accumulator.

Failure of the parking brake accumulator screw caps and/or end caps could result in loss of the number 2 hydraulic system, and damage to airplane structures, and could potentially have an adverse effect on the 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 16488, March 21, 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 16488, March 21, 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 16488, March 21, 2012).

Costs of Compliance

We estimate that this AD will affect about 129 products 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 $21,930, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $1,625, for a cost of $1,880 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 16488, March 21, 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:

2012–14–04 Bombardier, Inc.: Amendment 39–17118. Docket No. FAA–2012–0271; Directorate Identifier 2011–NM–196–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311, and –315 airplanes, certificated in any category, serial numbers 003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32: Landing gear.

(e) Reason

This AD was prompted by reports of hydraulic accumulator screw cap or end cap failure. We are issuing this AD to prevent failure of the parking brake accumulator screw caps or end caps, which could result in loss of the number 2 hydraulic system and damage to airplane structures, and could potentially have an adverse effect on the 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) Inspection and Replacement

Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Inspect to determine the part number (P/N) and serial number of the parking brake hydraulic accumulator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–170, dated February 25, 2011. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the parking brake hydraulic accumulator can be conclusively determined from that review.

(1) For accumulators not having P/N 0860162001 or 0860162002: No further action is required by this paragraph.

(2) For accumulators having P/N 0860162001 or 0860162002: Before further flight, do the applicable actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) If the serial number is listed in the table in paragraph 3.B.(2) of Bombardier Service Bulletin 8–32–170, dated February 25, 2011: No further action is required by this paragraph.

(ii) If the serial number is not listed in the table in paragraph 3.B.(2) of Bombardier Service Bulletin 8–32–170, dated February 25, 2011: Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first, replace the accumulator with a new non-suspect accumulator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–172, dated March 15, 2011.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a parking brake accumulator, P/N 0860162001 or 0860162002 with a serial number that is not listed in the table in paragraph 3.B.(2) of Bombardier Service Bulletin 8–32–170, dated February 25, 2011, on any airplane.

(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–2011–29, dated August 2, 2011, and the service information identified in paragraphs (j)(1) and (j)(2) of this AD, for related information.

(1) Bombardier Service Bulletin 8–32–170, dated February 25, 2011.

(2) Bombardier Service Bulletin 8–32–172, dated March 15, 2011.

(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 8–32–170, dated February 25, 2011.

(ii) Bombardier Service Bulletin 8–32–172, dated March 15, 2011.

(3) For 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 28, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–16967 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0704; Directorate Identifier 2012–SW–040–AD; Amendment 39–17113; AD 2012–13–11]

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) for Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 (all versions) and BO–105LS A–3 helicopters. This AD requires inspecting the tail rotor pitch link spherical bearing for proper swaging. This AD is prompted by a report of a tail rotor pitch link with a spherical bearing that had migrated out of the bearing bore. The actions specified by this AD are intended to prevent failure of the tail rotor pitch link and subsequent loss of control of the helicopter.

DATES: This AD becomes effective August 7, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents August 7, 2012.

We must receive comments on this AD by September 21, 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 Able Engineering and Support Services, 2920 East Chambers Street, Phoenix, AZ 85040; telephone (602) 304–1227; fax (602) 304–1277; email *info@ableengineering.com.* 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, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (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

Able Engineering & Component Services (Able) received a report of a tail rotor pitch link with a spherical bearing that had migrated out of the bearing bore. Investigation by Able revealed that the migration resulted from the spherical bearing being improperly swaged during a repair process and that the affected parts were limited to those repaired after January 1, 2011. Able determined that an inspection of other tail rotor pitch links repaired after that date is necessary to determine their airworthiness and issued Alert Service Bulletin (ASB) No.: 2012–001, Revision IR, dfated March 7, 2012 (Able ASB).

On March 19, 2012, Eurocopter issued one ASB with multiple numbers: Eurocopter Emergency Alert Service Bulletin (EASB) No. BO105 LS–30A–013 for model BO–105LS A–3 helicopters; EASB No. BO105 LS A–3–STC–0654/3058–30A–001 for model BO–105LS A–3 Superlifter helicopters; EASB No. MBB–BK117–30A–115 for model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters; and EASB No. MBB–BK117 C–2–67A–016 for model MBB–BK117 C–2 helicopters, all Revision 0. The EASB specifies complying with the inspection described in the Able ASB.

FAA's Determination

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

Related Service Information

We reviewed the Able ASB, which identifies certain tail rotor pitch links (pitch links) that are affected by the improper swaging of the spherical bearings. The Able ASB describes procedures to remove the pitch links and visually inspect the spherical bearings with an 8X magnifying glass for a bearing that has not been swaged and will migrate out of the bearing bore. If a pitch link is discovered with a bearing not properly swaged, the Able ASB specifies removing the pitch link from service and returning it to Able Engineering.

AD Requirements

This AD requires:

- Removing the pitch link from the helicopter and cleaning the spherical bearings.
- Applying hand pressure to the bearing faces and inspecting with an 8X or higher power magnifying glass for complete swaging of the bearing bore.
- If the pitch link has not been completely swaged, removing the pitch link and replacing it with an airworthy pitch link.

Differences Between This AD and the Service Information

The service information requires returning unairworthy pitch links to Able Engineering; this AD does not. The Eurocopter ASB applies to the Model BO105 LS A–3 ''Superlifter,'' and this AD does not as that model is not type certificated in the U.S.

Costs of Compliance

We estimate that this AD will affect 130 helicopters of U.S. Registry, and that operators may incur the following costs in order to comply with this AD. Inspecting each pitch link will require about 1.5 work hours at an average labor rate of $85 per hour, for a total cost per helicopter of about $127 and a cost to the U.S. operator fleet of $16,510. If required, replacing a pitch link with an airworthy pitch link will require about 1.5 work hours at an average labor rate of $85 per hour, and required parts will cost $1,442, for a total cost per helicopter of about $1,569.

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 corrective actions 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):

2012–13–11 Eurocopter Deutschland GmbH Helicopters: Amendment 39–17113; Docket No. FAA–2012–0704; Directorate Identifier 2012–SW–040–AD.

(a) Applicability

This AD applies to Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, MBB–BK 117 C–1, MBB–BK 117 C–2, and BO–105LS A–3 helicopters, with a tail rotor pitch link (pitch link) part number (P/N) 117–31821, 117–31822, or B642M1018101 with a serial number listed in Appendix 1 of Able Engineering & Component Services (Able) Alert Service Bulletin (ASB) No. 2012–001, Revision IR, dated March 7, 2012, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an improperly swaged spherical bearing on the pitch link, which could result in loss of tail rotor control and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes August 7, 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

For pitch links installed within the last 10 hours time-in-service (TIS), before further flight; for all other affected pitch links, within the next 10 hours TIS:

(1) Remove the pitch link.

(2) Clean the area around the spherical bearings and pitch link bearing bore chamfer.

(3) Apply axial hand pressure to the faces of both spherical bearings as shown in Figure 1 to Paragraph (e) of this AD.

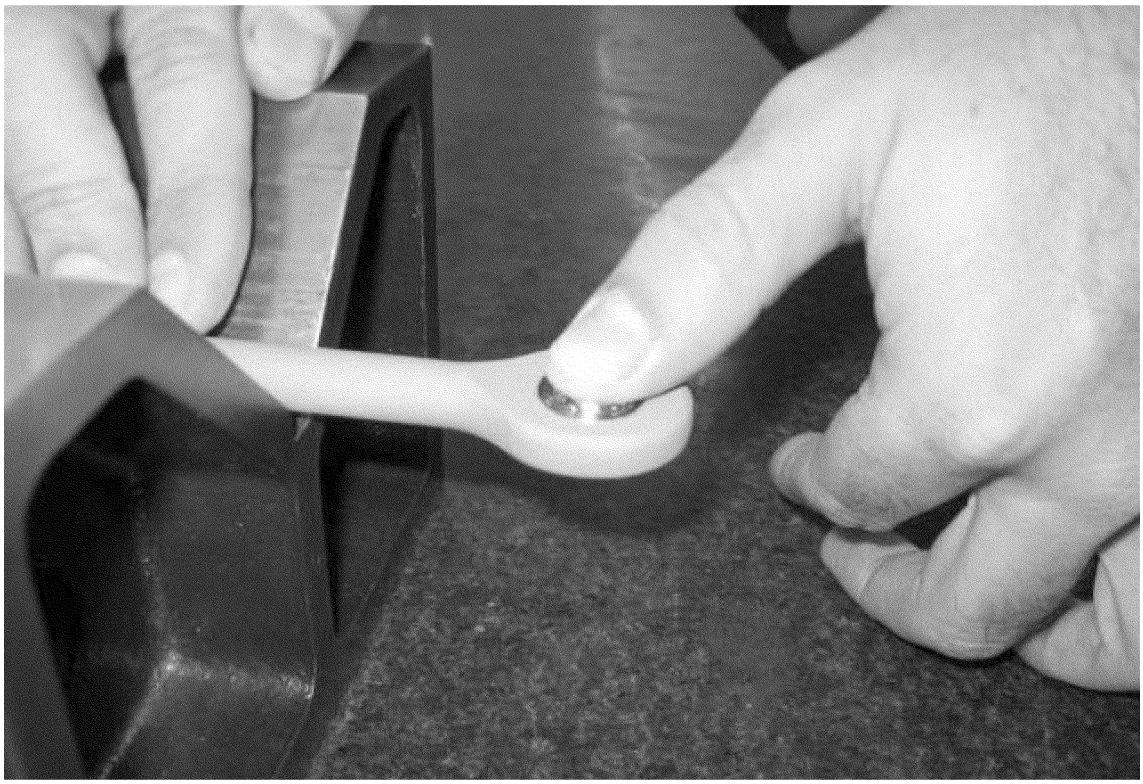


Figure 1 to Paragraph (e)

(4) Using an 8X or higher power magnifying glass, inspect the boundaries between the bearing and the bearing bore chamfer surface. Determine that the bearings have been completely swaged and there is no gap between the edge of the bearing and the chamfer as shown in Figure 2 to Paragraph (e) of this AD.

Figure 2 to Paragraph (e)

(5) If a bearing is not completely swaged or there is a gap between the edge of the bearing and the chamfer, as shown in Figure 3 to Paragraph (e) of this AD, replace the pitch link with an airworthy pitch link.

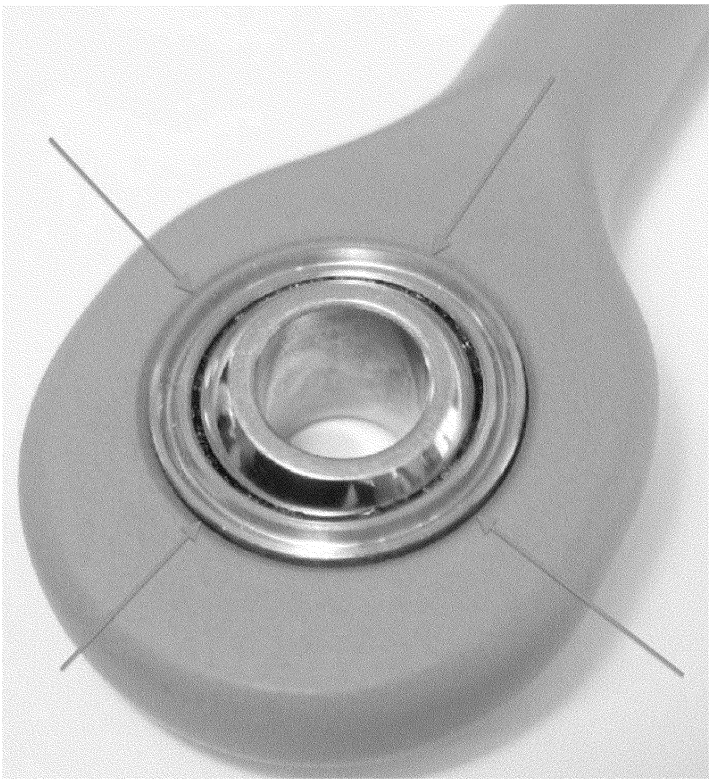


Figure 3 to Paragraph (e)

(f) Special Flight Permits

Special flight permits will not be issued.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Sharon Miles, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (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.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6420: Tail Rotor Head.

(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) Able Engineering & Component Services Alert Service Bulletin No. 2012–001, Revision IR, dated March 7, 2012.

(ii) Reserved.

(3) For Able Engineering & Component Services service information identified in this AD, contact Able Engineering & Component Services, 2920 East Chambers Street, Phoenix, AZ 85040; telephone (602) 304–1227; fax (602) 304–1277; email *info@ableengineering.com.*

(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 July 2, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–17559 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0149; Directorate Identifier 2011–NM–255–AD; Amendment 39–17117; AD 2012–14–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 and –300 series airplanes. This AD was prompted by reports of fatigue cracks in the lap joints, which initiated at scribe lines that were made during production when maskant was removed from the affected skin panels during the chemical milling process. This AD requires repetitive external phased-array ultrasonic inspections to detect cracks of the affected fuselage skin lap splices in Sections 41, 43, and 44, as applicable, and repair if necessary. We are issuing

this AD to detect and correct such fatigue cracking, which could grow large and cause sudden decompression and the inability to sustain limit flight and pressure loads.

DATES: This AD is effective August 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 27, 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, Washington 98057–3356; phone: 425–917–6533; fax: 425–917–6590; email: *James.Sutherland@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on February 22, 2012 (77 FR 10411). That NPRM proposed to require repetitive external phased-array ultrasonic inspections to detect cracks of the affected fuselage skin lap splices in Sections 41, 43, and 44, as applicable, 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 10411, February 22, 2012) and the FAA's response to each comment.

Request To Allow Certain Repairs

Boeing requested we add additional text to the end of paragraph (h)(2) of the NPRM (77 FR 10411, February 22, 2012) stating ''* * * unless all cracked material has been completely removed and the repair is a reinforcing repair that has been FAA approved to [Federal Aviation Regulations] 14 CFR 25.571 and 14 CFR 26.43 (c) or (d).'' Boeing stated that reinforcing repairs which are FAA approved to 14 CFR 25.571 at the certification basis for the subject Model 777 airplanes and 14 CFR 26.43(c) or (d) must have been evaluated for damage tolerance, and would have the damage tolerance inspection requirements in place in order to maintain the safety of the airplane at the repaired area. Boeing asserted that the requirement to obtain an alternative method of compliance (AMOC) approval for such repairs would therefore not be required to ensure the safety of the repaired airplane.

We disagree. The change proposed by Boeing would only require compliance for two certain regulations and would not require other necessary regulatory standards. The requirements defined in the existing AMOC delegation authority include other FAA regulations and manufacturer's design considerations beyond those listed on the airplane type certificate data sheet. We have not changed the final rule in this regard.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 46 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
Inspections for Group 1 airplanes (25 airplanes).	126 work-hours × $85 per hour = $10,710 per inspection cycle.	$0	$10,710 per inspection cycle	$267,750 per inspection cycle.
Inspections for Group 2 airplanes (21 airplanes).	50 work-hours × $85 per hour = $4,250 per inspection cycle.	0	$4,250 per inspection cycle ...	$89,250 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition repair.

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):

2012–14–03 The Boeing Company: Amendment 39–17117; Docket No. FAA–2012–0149; Directorate Identifier 2011–NM–255–AD.

(a) Effective Date

This AD is effective August 27, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200 and –300 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–53A0043, dated November 9, 2011.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of fatigue cracks in the lap joints, which initiated at scribe lines that were made during production when maskant was removed from the affected skin panels during the chemical milling process. We are issuing this AD to detect and correct such fatigue cracking, which could grow large and cause sudden decompression and the inability to sustain limit flight and pressure loads.

(f) Compliance

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

(g) Inspections and Repair

Except as provided by paragraph (h)(1) of this AD, at the applicable time identified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0043, dated November 9, 2011: Do external phased-array ultrasonic inspections to detect cracks of the affected fuselage skin lap splices in Sections 41, 43, and 44, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0043, dated November 9, 2011. If any crack is found, before further flight, repair in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0043, dated November 9, 2011; except as required by paragraph (h)(2) of this AD. Repeat the inspections of unrepaired areas thereafter at intervals not to exceed 4,200 flight cycles.

(h) Exception to Service Information

(1) Where Boeing Alert Service Bulletin 777–53A0043, dated November 9, 2011, specifies a compliance time ''after the original issue date on this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 777–53A0043, dated November 9, 2011, specifies that ''other approved methods'' may be used to install a repair, this AD requires that the repair be done using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(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

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, Washington 98057–3356; phone: 425–917–6533; fax: 425–917–6590; email: *James.Sutherland@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 Alert Service Bulletin 777–53A0043, dated November 9, 2011.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on June 28, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–16964 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0304; Directorate Identifier 2010–NM–103–AD; Amendment 39–17095; AD 2012–12–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for The Boeing Company Model 757 Airplanes. That AD currently requires revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness by

incorporating new limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. That AD also requires the initial inspection of certain repetitive AWL inspections to phase-in those inspections, and repair if necessary. This new AD requires actions that were provided previously as optional actions, and would require a certain initial inspection to be accomplished for a revised AWL. This AD was prompted by a report that an AWL required by the existing AD must be revised. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective August 27, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 27, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of June 12, 2008 (73 FR 25974, May 8, 2008).

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: Tak Kobayashi, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6499; fax: 425–917–6590; email: *takahisa.kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede airworthiness directive (AD) AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008). That AD applies to the specified products. The NPRM published in the **Federal Register** on April 8, 2011 (76 FR 19710). That NPRM proposed to continue to require revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness by incorporating new limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements, and the initial inspection of certain repetitive AWL inspections to phase-in those inspections, and repair if necessary. That NPRM also proposed to require actions that were provided previously as optional actions, and would require a certain initial inspection to be accomplished for a revised AWL.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. Boeing supports the NPRM (76 FR 19710, April 8, 2011).

Request To Refer to the Most Recent Revision of Service Information

United Airlines (UAL) requested that paragraph (l) of the NPRM (76 FR 19710, April 8, 2011) be revised to allow use of Boeing Temporary Revision (TR) 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 Maintenance Planning Data (MPD) Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; to comply with the proposed requirements of that paragraph.

We infer that the commenter would like the AD to reference the current revision of the service information. We agree to revise this AD to refer to the most recent revision. We have revised paragraph (k) of this AD (paragraph (l) of the NPRM (76 FR 19710, April 8, 2011), and also paragraphs (h), (l), (m), and (n) of this AD (paragraphs (h), (m), (n), and (o) of the NPRM, respectively) to reference Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

Request To Allow Use of Later Revisions to Certain Service Information

UAL requested that additional revisions of service information be included in paragraphs (s) and (t) of the NPRM (76 FR 19710, April 8, 2011). UAL noted in particular, the MPD revisions approved by the ACO after publication of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008). Since paragraphs (g), (h), and (i) of AD 2008–10–11 allow the use of a later revision of the MPD that is approved by the Seattle ACO without requesting an alternative method of compliance (AMOC), UAL believed that operators that used those later revisions after publication of AD 2008–10–11, without an AMOC, for the actions required by paragraphs (g), (h), and (i) of that AD would be in violation of the NPRM because they would not receive credit for using those revisions.

We agree that for paragraph (h) of this AD (the restated actions of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008)), the following revisions of the MPD are acceptable. Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; and Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; are the acceptable revisions that have been approved after June 12, 2008 (the effective date of AD 2008–10–11). No AMOC approval is needed to use any of those three documents. We have revised paragraph (h) of this AD accordingly, and also paragraphs (k), (l), (m), and (n) of this AD (paragraphs (l), (m), (n), and (o) of the NPRM (76 FR 19710, April 8, 2011)) to reference all three MPD revisions that are acceptable for compliance with the requirements of this AD.

No change is necessary for paragraph (g) of this AD, because paragraph (k) of this AD (paragraph (l) of the NPRM (76 FR 19710, April 8, 2011)) (which

terminates the requirements of paragraph (g) of this AD) has been revised to include those three MPD revisions.

Also, no change is necessary to paragraph (i) of this AD, because that paragraph does not reference service information. The paragraph clarifies that after accomplishing paragraphs (g) and (h) of this AD (except as required by paragraphs (k) and (l) of this AD respectively), no alternative inspections, inspection intervals, or critical design configuration control limitations (CDCCLs) are acceptable unless approved in accordance with the procedures specified in paragraph (s) of this AD.

Since we have included the MPD revision that was proposed as credit by paragraph (s) of the NPRM (76 FR 19710, April 8, 2011) as an MPD revision that is acceptable for compliance with this AD, we have deleted paragraph (s) of the NPRM (and re-identified paragraph (t) of the NPRM as paragraph (r)(2) of this AD) from this AD.

We do not agree that any revision to paragraph (r)(2) of this AD (paragraph (t) of the NPRM (76 FR 19710, April 8, 2011)) is necessary. Paragraph (r)(2) of this AD gives credit for a certain revision of the MPD for paragraphs (m) and (n) of this AD (paragraphs (n) and (o) of the NPRM), which are not a part of the existing actions of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008). We have not revised this AD in this regard.

Request To Revise Wording in Certain AWLs

UAL requested that wording in certain AWLs that refer to ''later revisions'' of component maintenance manuals (CMMs) be removed. UAL noted that the FAA removed references to ''a later revision'' of Section 9 of the Boeing 757 MPD Document, D622N001–9 (referenced as Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, in AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008)), to be consistent with FAA policy and with Office of the Federal Register regulations for approving materials that are incorporated by reference. UAL stated that section 51.1(f) of the Code of Federal Regulations (1 CFR 51.1(f)) prohibits the incorporation by reference of future amendments or revisions of publications, and because specific revisions of the Boeing 757 MPD Document, D622N001–9, are incorporated by reference into the **Federal Register**, UAL believed that the MPD should also omit language referring to future revisions of CMMs.

We disagree with the request. Paragraphs (g)(3) and (k)(3) (paragraph (l)(3) of the NPRM (76 FR 19710, April 8, 2011)) of this AD do not require operators to comply with applicable AWLs, but instead, require operators to incorporate applicable AWLs into their maintenance program. Once those applicable AWLs are incorporated into the operators' maintenance programs, operators are in compliance with paragraphs (g)(3) and (k)(3) of this AD. Compliance with the condition defined in each AWL is required by section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) as stated in Note 1 of the NPRM (76 FR 19710, April 8, 2011). Because this AD does not mandate compliance with the AWLs, any documents specified in the AWLs are not incorporated by reference in the **Federal Register**, and therefore, section 51.1(f) of the Code of Federal Regulations (1 CFR 51.1(f)) does not apply. We have not changed this AD in this regard.

Request To Clarify Differences Between Paragraphs (l)(3), (i), and (p) of the NPRM (76 FR 19710, April 8, 2011)

UAL requested further clarification in regards to paragraphs (i), (l)(3), and (p) of the NPRM (76 FR 19710, April 8, 2011). UAL noted that certain AWLs contain reference to later revisions of component maintenance manuals (CMMs). However, paragraphs (i) and (p) of the NPRM state that once certain AWLs are incorporated into the maintenance program, ''no alternative inspections, intervals, or CDCCLs may be used unless * * * approved as an AMOC * * *.'' Given this restriction, UAL believes that as long as certain AWLs specify ''later revisions'' of certain documents, it would not be possible to comply with paragraphs (i) and (p) of the NPRM. UAL also asked if every future revision of a CMM approved by the Seattle ACO would require separate AMOC approval to satisfy the requirements of paragraphs (i) and (p) of the NPRM.

We agree to provide clarification. There is no conflict between the requirements of paragraph (k)(3) of this AD (paragraph (l)(3) of the NPRM (76 FR 19710, April 8, 2011)) and paragraphs (i) and (o) of this AD. Paragraphs (i) and (o) (paragraphs (i) and (p) of the NPRM) of this AD prohibit the use of an alternative inspection, inspection interval, or CDCCL unless it is approved as an AMOC. The intent of paragraphs (i) and (o) of this AD is to prohibit the use of an alternative AWL without AMOC approval, as each AWL defines an inspection, inspection interval, or CDCCL. If an operator desires to use an alternative AWL, such as an AWL defined in an MPD revision that is different from those specified in paragraphs (g)(3) and (k)(3) of this AD, that operator must obtain AMOC approval to use that alternative AWL, as required by paragraphs (i) and (o) of this AD. Once operators incorporate the AWLs required by this AD or alternative AWLs that have been approved as an AMOC into their maintenance program, they are in compliance with the requirements of paragraphs (g)(3) and (k)(3) of this AD, as applicable. After incorporation of the AWLs, operators are required to comply with each AWL by 14 CFR 91.403(c). Operators are in compliance with those AWLs as long as they use CMM revisions that have been approved by the Seattle ACO. Therefore, separate AMOC approval is not necessary to use CMM revisions that have been approved by the Seattle ACO. We have not changed this AD in this regard.

Request To Consolidate Paragraphs (i) and (p) of the NPRM (76 FR 19710, April 8, 2011)

UAL requested that we consolidate paragraphs (i) and (p) of the NPRM (76 FR 19710, April 8, 2011) into a single paragraph. UAL stated that it found what it considers to be an overlap between paragraphs (i) and (p) of the NPRM. UAL suggested that consolidating the paragraphs would streamline the AD and reduce confusion for operators.

We disagree. Paragraph (i) of this AD is a part of the restatement of the existing requirements of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008), and is for the restated requirements of paragraphs (g) and (h) of this AD. Paragraph (o) of this AD (paragraph (p) of the NPRM (76 FR 19710, April 8, 2011)) is part of the new requirements of this superseding AD, and is intended to be effective once the revision required by paragraph (k) of this AD is done. We have not changed this AD in this regard. However, we have clarified paragraph (i) of this AD by noting that doing the actions required by paragraph (k) of this AD is an exception to the requirements of paragraph (i) of this AD.

Request To Consolidate the Credit Paragraphs

UAL requested that we consolidate paragraphs (j), (s), and (t) of the NPRM (76 FR 19710, April 8, 2011) into a single paragraph. UAL requested this

action for the convenience of providing operators a single paragraph to reference. In an example that UAL provided, UAL suggested combining paragraphs (j) and (s) of the NPRM into one sub-paragraph with the same effective date of June 12, 2008, and paragraph (t) of the NPRM as the other sub-paragraph with an effective date of ''before the effective date of this AD.''

We partially agree. Paragraph (s) of the NPRM (76 FR 19710, April 8, 2011) has been deleted as previously discussed. Paragraphs (j) and (t) of the NPRM can be consolidated. We have removed paragraph (j) of the NPRM, re-identified subsequent paragraphs, and relocated the information from paragraph (j) of the NPRM to paragraph (r)(1) of this AD. The information in paragraph (t) of the NPRM is now in paragraph (r)(2) of this AD.

Request To Clarify or Revise the Effective Dates in Regards to a Certain Revision Level of the MPD Document

UAL requested that we revise a sentence in paragraph (h) of the NPRM (76 FR 19710, April 8, 2011) that reads ''After the effective date of this AD, only * * * may be used'' to allow 6 months before requiring operators to use the current revision of the MPD when complying with the initial inspection requirements of paragraph (h) of the NPRM. UAL noted that paragraph (h) of the NPRM proposed to require use of Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9, immediately after the effective date of the AD, while paragraph (l) of the NPRM would have allowed 6 months to incorporate the Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9, into the maintenance program. UAL is concerned about the effect that such a short compliance time could have on airplanes on which the operator started the initial inspection (using a previous revision of the MPD) before the effective date of the AD and completes the inspection after the effective date of the AD.

We agree to revise paragraph (h) of this AD to allow 6 months after the effective date of this AD before operators are required to do initial inspections using Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9. This change would make paragraphs (h) and (k) of this AD more consistent with each other.

Request To Confirm Existence of Paragraph (h)(2) of the NPRM (76 FR 19710, April 8, 2011)

UAL stated that it could not confirm the existence of paragraph (h)(2) of the NPRM (76 FR 19710, April 8, 2011).

We agree to provide clarification. Paragraph (h)(1)(ii) of this AD (paragraph (h)(2) of the NPRM (76 FR 19710, April 8, 2011)), along with paragraphs (h)(1)(i) and (h)(1)(iii) of this AD (paragraphs (h)(1) and (h)(3) of the NPRM), are located within table 1 to paragraph (h)(1) of this AD. We have not changed this AD in this regard.

Request To Allow Use of Certain Hot Short Protectors (HSPs)

UAL requested the addition of a paragraph to the NPRM (76 FR 19710, April 8, 2011) that would allow the use of an HSP that passed a functional test described in a manufacturer's CMM. UAL noted that paragraph (r) of the NPRM discusses AWL No. 28–AWL–22, which specifies that a new unit be used during replacement of the HSP. UAL stated that Goodrich's CMM stated that the HSP is not repairable, however, the inclusion of a functional test procedure seems to indicate that an HSP can be used if it passes the functional test.

We disagree. AWL No. 28–AWL–22 as specified in the Boeing 757 MPD Document revisions required by paragraph (k)(3) of this AD (paragraph (l)(3) of the NPRM (76 FR 19710, April 8, 2011)) specifies the use of a new HSP. An operator's failure to comply with that AWL would be a violation of section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)). However, if an operator wants to incorporate an alternative AWL that allows for use of an HSP unit that passed a functional test, that operator may request an AMOC under the provisions of paragraph(s) of this AD. We have not changed this AD in this regard.

Request To Revise Instead of Supersede

UAL asked why the FAA is proposing to supersede AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008) instead of revising that AD. UAL listed 18 revised ADs that address the same subject for different model airplanes. UAL stated that superseding an AD drives many AMOC requests and could also set up ''compliance traps.''

We disagree. This AD requires new actions in addition to those originally required by AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008), while the other ADs that UAL listed do not require any additional action. When additional actions must be mandated, we supersede the existing AD instead of revising the AD. No change to this AD has been made in this regard.

Explanation of Other Changes Made to This AD

We have re-designated Note 4 of the NPRM (76 FR 19710, April 8, 2011) as paragraph (k)(4) of this AD. We have also reviewed Note 4 of the NPRM and determined that the reference to paragraph (k) of this AD may be removed. Paragraph (k)(4) of this AD is intended to clarify that this AD does not require rework of components that had been maintained using acceptable methods before the revisions of the maintenance program, as originally required by paragraph (g) of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008).

We have redesignated Note 1 of the NPRM (76 FR 19710, April 8, 2011) as paragraph (c)(2) of this AD, and paragraph (c) of the NPRM as paragraph (c)(1) of this AD.

We have revised the paragraph structure of paragraph (h) of this AD. Paragraphs (h), (h)(1), (h)(2), and (h)(3) of the NPRM (76 FR 19710, April 8, 2011) are reidentified as paragraphs (h)(1), (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD, respectively. We have also revised the heading of table 1 of the NPRM for more orderly codification within the *Code of Federal Regulations.*

We have redesignated Notes 2 and 3 of the NPRM (76 FR 19710, April 8, 2011) as paragraphs (h)(2), and (h)(3) of this AD, respectively.

We have revised certain headers throughout this AD.

We have revised the wording in paragraphs (r)(1) and (r)(2) of this AD (paragraphs (j) and (t) of the NPRM (76 FR 19710, April 8, 2011); this change has not changed the intent of these paragraphs.

We have corrected the definition of the term ''MPD document'' throughout this AD; this change does not affect the intent of any requirement in 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 (76 FR 19710, April 8, 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 19710, April 8, 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

There are about 990 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AWLs revision (required by AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008))	8	$85	$680	639	$434,520
Inspections (required by AD 2008–10–11)	8	85	680	639	434,520
AWLs revision (new required action)	1	85	85	639	54,315

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 have 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 DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008), and adding the following new AD:

2012–12–15 The Boeing Company: Amendment 39–17095; Docket No. FAA–2011–0304; Directorate Identifier 2011–NM–103–AD.

(a) Effective Date

This airworthiness directive (AD) is effective August 27, 2012.

(b) Affected ADs

This AD supersedes AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008). Certain requirements of this AD terminate certain requirements of AD 2008–11–07, Amendment 39–15529 (73 FR 30755, May 29, 2008); AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008); and AD 2009–06–20, Amendment 39–15857 (74 FR 12236, March 24, 2009).

(c) Applicability

(1) This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(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 these inspections, 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 of an alternative method of compliance (AMOC) according to paragraph(s) 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) Unsafe Condition

This AD results from a design review of the fuel tank systems. The Federal Aviation Administration is issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, 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) Retained Revision of Airworthiness Limitations (AWLs) Section

This paragraph restates the requirements of paragraph (g) of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008). Before December 16, 2008, revise the

AWLs section of the Instructions for Continued Airworthiness (ICA) by incorporating the information in the subsections specified in paragraphs (g)(1) through (g)(3) of this AD into the maintenance planning data (MPD) document; except that the initial inspections specified in table 1 to paragraph (h)(1) of this AD must be done at the compliance times specified in table 1 to paragraph (h)(1) of this AD. Accomplishing the requirements of paragraph (k) of this AD terminates the requirements of this paragraph.

(1) Subsection E, ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS,'' of Boeing Temporary Revision (TR) 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

(2) Subsection F, ''PAGE FORMAT: SYSTEMS AIRWORTHINESS LIMITATIONS,'' of Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

(3) Subsection G, ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs,'' AWLs No. 28–AWL–01 through No. 28–AWL–24 inclusive, of Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9. As an optional action, AWLs No. 28–AWL–25 and No. 28–AWL–26, as identified in Subsection G of Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, also may be incorporated into the AWLs section of the ICA.

(h) Retained Initial Inspections and Repair, With Revised Service Information

(1) This paragraph restates the requirements of paragraph (h) of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008). Do the inspections specified in table 1 to paragraph (h)(1) of this AD at the compliance time identified in table 1 to paragraph (h)(1) of this AD, and repair any discrepancy, in accordance with Subsection G of Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; except as required by paragraph (n) of this AD. The repair must be done before further flight. Accomplishing the inspections identified in table 1 to paragraph (h)(1) of this AD as part of a maintenance program before the applicable compliance time specified in table 1 paragraph (h)(1) of this AD constitutes compliance with the requirements of this paragraph. As of 6 months after the effective date of this AD, only Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; may be used.

TABLE 1 TO PARAGRAPH (h)(1) OF THIS AD—INITIAL INSPECTIONS

AWL No.	Description	Compliance time (whichever occurs later)	
		Threshold	Grace period
(i) 28–AWL–01	A detailed inspection of external wires over the center fuel tank for damaged clamps, wire chafing, and wire bundles in contact with the surface of the center fuel tank.	Within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.	Within 72 months after June 12, 2008 (the effective date of AD 2008–10–11, Amendment 39-15517 (73 FR 25974, May 8, 2008)).
(ii) 28–AWL–03 ...	A special detailed inspection of the lightning shield to ground termination on the out-of-tank fuel quantity indicating system to verify functional integrity.	Within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.	Within 24 months after June 12, 2008.
(iii) 28–AWL–14 ..	A special detailed inspection of the fault current bond of the fueling shutoff valve actuator of the center wing tank to verify electrical bond.	Within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.	Within 60 months after June 12, 2008.

(2) For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

(3) For the purposes of this AD, a special detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

(i) No Alternative Inspections, Inspection Intervals, or CDCCLs for Paragraphs (g) and (h) of This AD

Except as required by paragraph (k) of this AD, after accomplishing the actions specified in paragraphs (g) and (h) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (s) of this AD.

(j) Terminating Action for AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008)

Incorporating AWLs No. 28–AWL–23, No. 28–AWL–24, and No. 28–AWL–25 into the AWLs section of the ICA in accordance with paragraph (g)(3) of this AD or the maintenance program in accordance with paragraph (k)(3) of this AD terminates the action required by paragraph (h)(2) of AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008).

(k) New Revision of Airworthiness Limitations (AWLs) Section

Within 6 months after the effective date of this AD, revise the maintenance program by incorporating the information in the

subsections specified in paragraphs (k)(1) through (k)(3) of this AD. Accomplishing the actions required by this paragraph terminates the requirements of paragraph (g) of this AD.

(1) Subsection E, ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS,'' of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

(2) Subsection F, ''PAGE FORMAT: FUEL SYSTEMS AIRWORTHINESS LIMITATIONS,'' of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

(3) Subsection G, ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs,'' AWLs No. 28–AWL–01 through No. 28–AWL–26 inclusive, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

(4) Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before the revision of the maintenance program, as required by paragraph (g) of this AD, do not need to be reworked in accordance with the CDCCLs. However, once the maintenance program has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

(l) Compliance Time for AWL No. 28–AWL–03

The initial compliance time for AWL No. 28–AWL–03 of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; is within 120 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 24 months after the effective date of this AD, whichever occurs later. Accomplishing the actions required by this paragraph terminates the requirements of paragraph (h)(2) of this AD.

(m) Initial Inspection Compliance Times for AWL No. 28–AWL–25

The initial inspection compliance time for AWL No. 28–AWL–25 of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; is within 72 months after accomplishing Boeing Service Bulletin 757–28A0088.

(n) Initial Inspection Compliance Times for AWL No. 28–AWL–26

The initial inspection compliance time for AWL No. 28–AWL–26 of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision December 2008; Boeing TR 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9; or Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9; is within 12 months after accomplishing Boeing Service Bulletin 757–28A0105.

(o) No Alternative Inspections, Inspection Intervals, or CDCCLs After the Actions Required by Paragraph (k) of This AD Are Done

After accomplishing the actions specified in paragraph (k) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (s) of this AD.

(p) Terminating Action for AD 2008–11–07, Amendment 39–15529 (73 FR 30755, May 29, 2008)

Incorporating AWLs No. 28–AWL–20 and No. 28–AWL–26 into the maintenance program in accordance with paragraph (k)(3) of this AD terminates the actions required by paragraphs (j) and (m) of AD 2008–11–07, Amendment 39–15529 (73 FR 30755, May 29, 2008).

(q) Terminating Action for AD 2009–06–20, Amendment 39–15857 (74 FR 12236, March 24, 2009)

Incorporating AWL No. 28–AWL–22 into the maintenance program in accordance with paragraph (k)(3) of this AD terminates the actions required by paragraph (h) of AD 2009–06–20, Amendment 39–15857 (74 FR 12236, March 24, 2009).

(r) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were done before June 12, 2008 (the effective date of AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008), using Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9, Revision March 2006; Revision October 2006; Revision January 2007; or Revision November 2007.

(2) This paragraph provides credit for actions required by paragraphs (m) and (n) of this AD, if those actions were done before the effective date of this AD, using Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9.

(s) 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) AMOCs approved previously for AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008), are approved as AMOCs for the corresponding provisions of this AD.

(t) Related Information

For more information about this AD, contact Tak Kobayashi, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6499; fax: 425–917–6590; email: *takahisa.kobayashi@faa.gov.*

(u) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information

under 5 U.S.C. 552(a) and 1 CFR part 51 on the date specified.

(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 August 27, 2012.

(i) Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 Maintenance Planning Data (MPD) Document, D622N001–9, Revision December 2008.

(ii) Boeing Temporary Revision (TR) 09–010, dated July 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 757 MPD Document, D622N001–9. Boeing TR 09–010 is published as Section 9 of the Boeing 757 MPD Document, D622N001–9, Revision July 2010.

(iii) Boeing TR 09–011, dated November 2010, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9. Boeing TR 09–011 is published as Section 9 of the Boeing 757 MPD Document, D622N001–9, Revision November 2010.

(4) The following service information was approved for IBR on June 12, 2008 (73 FR 25974, May 8, 2008).

(i) Boeing TR 09–008, dated March 2008, to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of the Boeing 757 MPD Document, D622N001–9. Boeing TR 09–008 is published as Section 9 of the Boeing 757 Maintenance Planning Data (MPD) Document, D622N001–9, Revision March 2008. The Boeing 757 MPD Document, D622N001–9, Revision March 2008, was incorrectly referred to in AD 2008–10–11, Amendment 39–15517 (73 FR 25974, May 8, 2008), as the ''Boeing 757 Maintenance Planning Document (MPD) Document, D622N001–9, Revision March 2008.

(ii) Reserved.

(5) 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.*

(6) 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.

(7) 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 6, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–17558 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0739; Directorate Identifier 2012–SW–044–AD; Amendment 39–17125; AD 2012–14–11]

RIN 2120–AA64

Airworthiness Directives; Various Restricted Category Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Arrow Falcon Exporters, Inc. (AFE), Rotorcraft Development Corporation (RDC), and San Joaquin Helicopters (SJH) Model OH–58A, OH–58A+, and OH–58C helicopters to require inspecting the main rotor mast (mast) for a crack. This AD is prompted by two reported failures of the mast from corrosion-initiated fatigue cracking. The actions specified by this AD are intended to prevent failure of the mast and subsequent loss of control of the helicopter.

DATES: This AD becomes effective August 7, 2012.

We must receive comments on this AD by September 21, 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 Arrow Falcon Exporters, Inc., 2081 South Wildcat Way, Porterville, CA 93257; telephone (559) 781–8604; fax (559) 781–9271; email *afe@arrowfalcon.com.*

You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: John Cecil, Aviation Safety Engineer, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627–5228; email *john.cecil@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

AFE reported two failures of a mast on an OH–58A+ and an OH–58C helicopter used in agricultural spraying operations. Investigation revealed that the mast failures were caused by fatigue cracking, which initiated from corrosion pitting found in the threaded section of the mast approximately 45 inches from

the top of the mast. AFE issued Alert Service Bulletin: 2012–58–01, Revision 1, dated February 20, 2012 (ASB 2012–58–01), which specifies overhauling and inspecting the mast for any cracks, pitting, or corrosion by following the procedures in the latest revision of Aviation Unit and Intermediate Maintenance Manual TM55–1520–228–23. ASB 2012–58–01 further specifies replacing any mast with a crack, pitting, or corrosion beyond surface rust that is removed with a wire brush or steel wool in the threaded portion of the mast.

FAA's Determination

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

AD Requirements

This AD requires overhauling the mast and performing specific inspections for a crack, pitting, or corrosion in the threaded area of the mast and associated parts. If there is a crack, pitting, or corrosion, this AD requires replacing the mast with an airworthy mast. This AD also requires the operator to report any crack, pitting, or corrosion found during the inspections. The report must include the number of hours time-in-service (TIS) and calendar time since the last overhaul of the mast.

Differences Between This AD and the Service Information

RDC and SJH helicopters are included in this AD because they have the same mast design and are operated similarly to the AFE fleet. This AD does not include the 1200 hour TIS repetitive inspections required by ASB 2012–58–01.

Interim Action

We consider this AD to be an interim action. We are considering a repetitive inspection for this unsafe condition. The planned inspection interval would allow sufficient opportunity for prior public notice and comment.

Costs of Compliance

We estimate that this AD will affect 80 helicopters of U.S. Registry, and that operators may incur the following costs in order to comply with this AD. Inspecting the mast and reporting the results will require about 20 work hours at an average labor rate of $85 per hour, for a total cost of $1,700 per helicopter, and a total cost to the U.S. operator fleet of $136,000. Replacing a cracked main rotor mast will require about 20 work hours at an average labor rate of $85 per hour, and required parts will cost about $11,891 for a total cost per helicopter of $13,591.

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 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):

2012–14–11 Various Restricted Category Helicopters: Amendment 39–17125; Docket No. FAA–2012–0739; Directorate Identifier 2012–SW–044–AD.

(a) Applicability

This AD applies to Arrow Falcon Exporters, Inc. (AFE), Rotorcraft Development Corporation (formerly Garlick Helicopter Corporation, and Garlick Helicopter, Inc.), and San Joaquin Helicopters Model OH–58A, OH–58A+, and OH–58C helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the main rotor mast, which could result in failure of the mast and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective August 7, 2012.

(d) Compliance

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

(e) Required Actions

(1) Within 30 days, unless accomplished previously within the last 12 months:

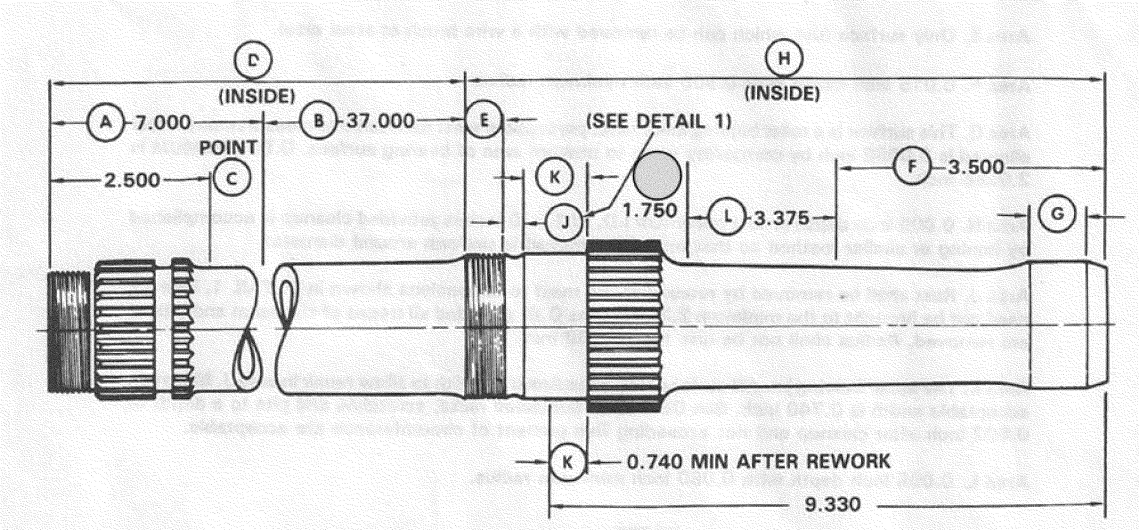
(i) Overhaul the main rotor mast assembly and magnetic particle inspect the mast; mast bearing nut; plate, mast and seal; and bearing liner for a crack.

(ii) Fluorescent penetrant inspect the locking plate for a crack.

(iii) Using a 10X or higher magnifying glass, inspect the threaded area of the mast

as shown in area E of figure 1 to paragraph (e) of this AD for pitting, corrosion, or a crack. Remove any surface rust with a wire brush or steel wool.

Figure 1 to Paragraph (e)



(2) If there is a crack, pitting, or corrosion, before further flight, replace the mast with an airworthy mast.

(3) Within 10 days, report any findings of a crack, pitting, or corrosion to the address listed in paragraph (g)(1) of this AD. Include the number of hours TIS and calendar time since the last overhaul and inspection of the mast and the restricted category type of the helicopter.

(f) Paperwork Reduction Act Burden Statement

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.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: John Cecil, Aviation Safety Engineer, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627–5228; email *john.cecil@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.

(h) Additional Information

(1) Arrow Falcon Exporters, Inc., Alert Service Bulletin: 2012–58–01, Revision 1, dated February 20, 2012, which is not incorporated by reference, contains more information about the subject of this AD.

(2) For service information identified in this AD, contact Arrow Falcon Exporters, Inc., 2081 South Wildcat Way, Porterville, CA 93257; telephone (559) 781–8604; fax (559) 781–9271; email *afe@arrowfalcon.com.*

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

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6300: Main Rotor Drive.

Issued in Fort Worth, Texas, on July 5, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–17279 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 738, 746, and 774

[Docket No. 110725414–1480–01]

RIN 0694–AF31

Export and Reexport Controls to Rwanda and United Nations Sanctions Under the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to implement United Nations Security Council Resolution (UNSCR) 1823 (2008), which, among other things, terminated sanctions against Rwanda concerning ''arms and related materiel'' imposed in 1994 pursuant to UNSCR 918. This rule includes conforming changes in the EAR related to the termination of the United Nations embargo on ''arms and related materiel'' against Rwanda, including the removal of machetes from the Commerce Control List (CCL). Further, BIS amends Part 746 (Embargoes and Other Special Controls) of the EAR to require a license to export or reexport certain items to countries subject to United Nations Security Council arms embargoes. A presumptive denial policy will apply to applications to export or reexport items that are

controlled for UN reasons and that would contravene a United Nations Security Council arms embargo.

DATES: This rule is effective July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Susan Kramer, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Telephone (202) 482–4252 or Email *Susan.Kramer@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The arms embargo against Rwanda was initially imposed through United Nations Security Council Resolution (UNSCR) 918 on May 17, 1994, and was continued through subsequent resolutions, including UNSCR 1011 on August 16, 1995. The embargo was implemented in the EAR on August 8, 1994 (59 FR 40235), most recently in § 746.8 of the EAR. The United Nations Security Council terminated the arms embargo against Rwanda on July 10, 2008, via UNSCR 1823. Accordingly, this rule removes the United Nations Embargo (UN) controls on Rwanda by removing Rwanda from Part 746. BIS also makes conforming changes related to the removal of UN controls on Rwanda in § 732.3, Supplement No. 1 to Part 738 and Supplement No.1 to Part 774 of the EAR.

One of the conforming changes is the removal of machetes from Export Control Classification Number (ECCN) 0A988. Machetes were added to the CCL when BIS in 1994 (then called the Bureau of Export Administration) implemented the United Nations Security Council arms embargo against Rwanda by way of Executive Order 12918 (59 FR 40235 (Aug. 8, 1994)). Because this rule removes the UN controls imposed against Rwanda and because machetes were added to the CCL to address concerns with their use in Rwanda in particular, BIS is removing machetes from the CCL.

In this final rule, BIS also amends § 746.1(b) to require a license for the export or reexport of items controlled for ''UN'' reasons to countries subject to United Nations Security Council arms embargoes. Paragraph (b)(2) lists all the countries subject to United Nations Security Council arms embargoes. Paragraph (b)(3) states that, to the extent consistent with United States national security and foreign policy interests, and pursuant to revised paragraph (b) of § 746.1, BIS will not approve applications to export or reexport items with a UN reason for control to countries subject to United Nations Security Council arms embargoes if such authorizations would be contrary to the relevant United Nations Security Council Resolutions. Paragraph (b)(4) provides that the availability of license exceptions to countries listed in § 746.1(b)(2) is restricted to License Exception GOV § 740.11(b)(2)(i) and (ii).

The rule also clarifies the UN embargo provisions for Iraq and North Korea under the EAR by including cross-references to § 746.3 (Iraq) and § 746.4 (North Korea).

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50661 (Aug. 16, 2011)). BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

This action is taken after consultation with the Secretary of State. BIS submitted a foreign policy report to the Congress indicating the imposition of new foreign policy controls on June 28, 2012.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provisions of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves a collection of information subject to the PRA. This collection has been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to 5 U.S.C. 553(a)(1), the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). This final rule implements U.S. multilateral commitments concerning United Nations Security Council arms embargoes. The sanctions against Rwanda were initially implemented in part to fulfill U.S. obligations to implement the United Nations Security Council's arms embargo against Rwanda. Consistent with the United Nations Security Council's actions lifting the arms embargo and U.S. obligations thereunder, BIS is removing the sanctions imposed against Rwanda under the EAR. In addition, in this rule, BIS amends the EAR to require a license to export or reexport certain items to countries subject to United Nations arms embargoes. To the extent consistent with United States national security and foreign policy interests, BIS will not approve such license applications if such authorizations would be contrary to relevant United Nations Security Council Resolutions. In light of United States commitments, BIS implements this approach pursuant to the existing licensing provisions and policies set out in Part 742 of the EAR and pursuant to revised § 746.1(b), which sets out countries subject to United Nations Security Council arms embargoes. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Therefore, this regulation is issued in final form and is made effective immediately upon publication.

List of Subjects

15 CFR Part 732

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

15 CFR Part 738

Exports.

15 CFR Parts 746 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 732, 738, 746 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 732—[AMENDED]

■ 1. The authority citation for 15 CFR part 732 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 Fed. Reg. 50661 (Aug. 16, 2011).

■ 2. Section 732.3 is amended

■ a. By removing the phrase ''and Rwanda'' from paragraph (d)(4); and

■ c. By revising paragraph (i) introductory text to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

* * * * *

(i) *Step 14: Embargoed countries and special destinations.* If your destination for any item is Cuba, Iran, Iraq, North Korea, or Syria, you must consider the requirements of parts 742 and 746 of the EAR. Unless otherwise indicated, General Prohibition Six (Embargo) applies to all items subject to the EAR, i.e. both items on the CCL and within EAR99. See § 746.1(b) for destinations subject to limited sanctions under United Nations Security Council arms embargoes. You may not make an export or reexport contrary to the provisions of part 746 of the EAR without a license unless:

* * * * *

PART 738—[AMENDED]

■ 3. The authority citation for 15 CFR Part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 Fed. Reg. 50661 (Aug. 16, 2011).

■ 4. Supplement No. 1 to Part 738 is amended

■ a. By removing the footnote designation ''1'' from the country ''Rwanda'';

■ b. By adding the footnote designation ''1'' to ''Cote d'Ivoire,'' ''Congo (Democratic Republic of),'' ''Eritrea,'' ''Iran,'' ''Lebanon,'' ''Liberia,'' ''Libya,'' ''Korea, North,'' ''Somalia,'' and ''Sudan''; and

■ c. By revising footnote 1 to the Supplement to read as follows:

Supplement No. 1 To Part 738

[Reason for Control]

* * * * *

[1] See § 746.1(b) for United Nations Security Council Sanctions under the EAR. See § 746.3 for United Nations Security Council-related license requirements for exports and reexports to Iraq or transfer within Iraq under the EAR, as well as regional stability licensing requirements not included in the Country Chart.

* * * * *

PART 746—[AMENDED]

■ 5. The authority citation for 15 CFR Part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007–7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

■ 6. Revise § 746.1(b) to read as follows:

§ 746.1 Introduction

* * * * *

(b) *Sanctions on selected categories of items to specific destinations.* (1) BIS controls the export and reexport of selected categories of items to countries under United Nations Security Council arms embargoes. See the Commerce Control List in Supplement No. 1 to Part 774. See also §§ 746.3 (Iraq) and 746.4 (North Korea).

(2) The countries subject to United Nations Security Council arms embargoes are: Cote d'Ivoire (Ivory Coast), Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, and Sudan.

(3) A license is required to export or reexport items identified in Part 774 as having a ''UN'' reason for control to countries identified in paragraph (b)(2) of this section. To the extent consistent with United States national security and foreign policy interests, BIS will not approve applications for such licenses if the authorization would be contrary to the relevant United Nations Security Council Resolution.

(4) You may not use any License Exception to export items subject to UN arms embargo controls to countries listed in 746.1(b)(2), except License Exception GOV § 740.11(b)(2)(i) and (ii).

* * * * *

§ 746.8 [Removed and Reserved]

■ 7. Remove and reserve § 746.8.

PART 774—[AMENDED]

■ 8. The authority citation for 15 CFR Part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

■ 8. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section;

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section; and

■ c. By removing paragraph (1) from the ''Related Controls'' paragraph in the ''List of Items Controlled'' section.

The revisions read as follows:

Supplement No. 1 To Part 774—The Commerce Control List

* * * * *

0A018 Items on the Wassenaar Munitions List.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $5,000 for 0A018.a
$3,000 for 0A018.b
$1,500 for 0A018.c and .d

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: See 0A979, 0A988, and 22 CFR 121.1 Categories I(a), III(b–d), and X(a).

* * * * *

■ 9. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A918 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

Supplement No. 1 To Part 774—The Commerce Control List

* * * * *

0A918 Miscellaneous Military Equipment Not on the Wassenaar Munitions List.

License Requirements

Reasons for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $5,000 for 0A918.a
$1,500 for 0A918.b

* * * * *

■ 10. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A919 is amended by removing the UN ''Control(s)'' paragraph from the License Requirements section.

■ 11. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A984 is amended by revising the UN ''Control(s)'' paragraph in the License Requirements section to read as follows:

0A984 Shotguns with barrel length 18 inches (45.72 cm) or over; receivers; barrels of 18 inches (45.72 cm) or longer but not longer than 24 inches (60.96 cm); complete trigger mechanisms; magazines and magazine extension tubes; complete breech mechanisms; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 12. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A985 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

0A985 Discharge type arms and devices to administer electric shock for example, stun guns, shock batons, shock shields, electric cattle prods, immobilization guns and projectiles; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 13. In Supplement No. 1 to Part 774 (the Commerce Control list), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A986 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

0A986 Shotgun shells except buckshot shotgun shells, and parts.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 14. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0 Nuclear Materials, Facilities and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A987 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' to read as follows:

0A987 Optical sighting devices for firearms (including shotguns controlled by 0A984); and parts (See list of items controlled).

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 15. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0 Nuclear Materials, Facilities and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A988 is amended by revising the Heading and the UN ''Control(s)'' paragraph in the ''License Requirements'' to read as follows:

0A988 Conventional military steel helmets as described by 0A018.d.1.

License Requirements

Reason for Control: * * *

UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 16. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0B986 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

0B986 Equipment specially designed for manufacturing shotgun shells; and ammunition hand-loading equipment for both cartridges and shotgun shells.

License Requirements

Reason for Control: * * *

Control(s) * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 17. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0E018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''TSR'' paragraph in the ''License Exceptions'' section to read as follows:

0E018 ''Technology'' for the ''Development,'' ''Production,'' or ''Use'' of Items Controlled by 0A018.a Through 0A018.c.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

License Exceptions

* * * * *

TSR: Yes.

* * * * *

■ 18. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0E918 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

0E918 ''Technology'' for the ''Development,'' ''Production,'' or ''Use'' of Bayonets.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 19. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0E984 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

0E984 ''Technology'' for the ''development'' or ''production'' of shotguns controlled by 0A984 and buckshot shotgun shells.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 20. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Micro Organisms,'' and ''Toxins''—Export Control Classification Number (ECCN) 1A005 is amended:

■ a. By removing paragraph (3) of the ''Related Controls'' section; and

■ b. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

1A005 Body armor, and specially designed components therefor, not manufactured to military standards or specifications, nor to their equivalents in performance.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 21. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Micro Organisms,'' and ''Toxins''—Export Control Classification Number (ECCN) 1A008 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

1A008 Charges, devices and components, as follows (see List of Items Controlled).

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $3000 for .a through .c; $6000 for .d.

* * * * *

■ 22. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1 Special Materials and Related Equipment, Chemicals, ''Micro Organisms,'' and ''Toxins''—Export Control Classification Number (ECCN) 1B018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

1B018 Equipment on the Wassenaar Arrangement Munitions List.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $3000 for 1B018.a for countries WITHOUT an ''X'' in RS Column 2 on the Country Chart contained in Supplement No. 1 to part 738 of the EAR; $5000 for 1B018.b.

■ 23. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1 Special Materials and Related Equipment, Chemicals, ''Micro Organisms,'' and ''Toxins''—Export Control Classification Number (ECCN) 1C018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

1C018 Commercial Charges and Devices Containing Energetic Materials on the Wassenaar Arrangement Munitions List and Certain Chemicals as Follows (see List of Items Controlled).

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $3000

* * * * *

■ 24. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Micro Organisms,'' and ''Toxins''—Export Control Classification Number (ECCN) 1D018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''Related Controls'' section to read as follows:

1D018 ''Software'' specially designed or modified for the ''development,''

''production,'' or ''use'' of items controlled by 1B018.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

Related Controls: N/A

* * * * *

■ 25. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing—Export Control Classification Number (ECCN) 2B018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' and ''GBS'' paragraphs in the ''License Exceptions'' section to read as follows:

2B018 Equipment on the Wassenaar Arrangement Munitions List.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $3000.

GBS: Yes, as follows, except N/A for MT-controlled items or destinations for which a license is required for RS reasons: Equipment used to determine the safety data of explosives as required by the International Convention on the Transport of Dangerous Goods (C.I.M.) Articles 3 and 4 in Annex 1 RID, provided that such equipment will be used only by the railway authorities of current C.I.M. members, or by the Government-accredited testing facilities in those countries, for the testing of explosives to transport safety standards, of the following description:

a. Equipment for determining the ignition and deflagration temperatures;

b. Equipment for steel-shell tests;

c. Drophammers not exceeding 20 kg in weight for determining the sensitivity of explosives to shock;

d. Equipment for determining the friction sensitivity of explosives when exposed to charges not exceeding 36 kg in weight.

* * * * *

■ 26. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing—Export Control Classification Number (ECCN) 2D018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''TSR'' paragraph in the ''License Exceptions'' section to read as follows:

2D018 ''Software'' for the ''development,'' ''production,'' or ''use'' of equipment controlled 2B018.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

* * * * *

TSR: Yes.

* * * * *

■ 27. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing—Export Control Classification Number (ECCN) 2E018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''TSR'' paragraph in the ''License Exceptions'' section to read as follows:

2E018 ''Technology'' for the ''use'' of equipment controlled by 2B018.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

* * * * *

TSR: Yes.

* * * * *

■ 28. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5—Telecommunications and ''Information Security'' (Part 1. Telecommunications) Export Control Classification Number (ECCN) 5A980 (Devices primarily useful for the surreptitious interception of wire, oral, or electronic communications; and parts and accessories therefor) is amended by removing the second NOTE, which refers to Rwanda, in the ''License Requirements'' section.

* * * * *

■ 29. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5—Telecommunications and ''Information Security'' (Part I. Telecommunications) Export Control Classification Number (ECCN) 5D980 (Other ''Software,'' as Follows (see List of Items Controlled) is amended by removing the second NOTE, which refers to Rwanda, in the ''License Requirements'' section.

* * * * *

■ 30. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5—Telecommunications and ''Information Security'' (Part I. Telecommunications)—Export Control Classification Number (ECCN) 5E980 (''Technology'' primarily useful for the ''development,'' ''production,'' or ''use'' of equipment controlled by 5A980) is amended by removing the NOTE, which refers to Rwanda, in the ''License Requirements'' section.

* * * * *

■ 31. In Supplement No. 1 to Part 774 (the Commerce Control list), Category 6 Sensors and Lasers—Export Control Classification Number (ECCN) 6A002 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

6A002 Optical Sensors.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to 6A002.a.1, a.2, a.3 and c.	See § 746.1(b) for UN controls.

* * * * *

■ 32. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6—Sensors and Lasers—Export Control Classification Number (ECCN) 6A003 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

6A003 Cameras.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to items controlled in 6A003.b.3 and b.4.	See § 746.1(b) for UN controls.

* * * * *

■ 33. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6—Sensors and Lasers—Export Control Classification Number (ECCN) 6E001 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By removing paragraph ''(5)'' in the ''TSR'' paragraph in the ''License Exceptions'' section to read as follows:

6E001 ''Technology'' according to the general technology note for the ''development'' of equipment, materials or ''software'' controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, or 6A998), 6B (except 6B995), 6C (except 6C992 or 6C994), or 6D (except 6D991, 60992, or 6D993).

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to ''technology'' for equipment Controlled by 6A002 or 6A003 for UN reasons.	See § 746.1(b) for UN controls.

* * * * *

License Exceptions

CIV: * * *

TSR: Yes, except for the following:

(1) Items controlled for MT reasons;

(2) ''Technology'' for commodities controlled by 6A002.e, 6A004.e, or 6A008.j.1;

(3) ''Technology'' for ''software'' specially designed for ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1 and controlled by 6D001 or 6D002; or

(4) Exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for the ''development'' of the following: (a) Items controlled by 6A001.a.1.b, 6A001.a.1.e, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.3, 6A001.a.2.a.5, 6A001.a.2.a.6, 6A001.a.2.b, 6A001.a.2.d, 6A001.a.2.e., 6A002.a.1.a, 6A002.a.1.b, 6A002.a.1.c, 6A002.a.2.a, 6A002.a.2.b, 6A002.a.3, 6A002.b, 6A002.c, 6A003.b.3, 6A003.b.4, 6A004.c, 6A004.d, 6A006.a.2, 6A006.c.1, 6A006.d, 6A006.e, 6A008.d, 6A008.h, 6A008.k, 6B008, 6D003.a; (b) Equipment controlled by 6A001.a.2.c or 6A001.a.2.f when specially designed for real time applications; or (c) ''Software'' controlled by 6D001 and specially designed for the ''development'' or ''production'' of equipment controlled by 6B008, or 6D003.a.

STA: * * *

* * * * *

■ 34. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6—Sensors and Lasers—Export Control Classification Number (ECCN) 6E002 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By removing paragraph ''(4)'' in the ''TSR'' paragraph in the ''License Exceptions'' section to read as follows:

6E002 ''Technology'' according to the general technology note for the ''production'' of equipment or materials controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998) 6B (except 6B995) or 6C (except 6C992 or 6C994).

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	See § 746.1(b) for UN controls.

* * * * *

License Exceptions

CIV: * * *

TSR: Yes, except for the following:

(1) Items controlled for MT reasons;

(2) ''Technology'' for commodities controlled by 6A002.e, 6A004.e, 6A008.j.1; or

(3) Exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for the ''production'' of the following: (a) Items controlled by 6A001.a.1.b, 6A001.a.1.e, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.3, 6A001.a.2.a.5, 6A001.a.2.a.6, 6A001.a.2.b, 6A002.a.3, 6A002.b, 6A002.c, 6A003.b.3, 6A003.b.4, 6A004.c, 6A004.d, 6A006.a.2, 6A006.c.1, 6A006.d, 6A006.e, 6A008.d, 6A008.h, 6A008.k, 6B008; and (b) Equipment controlled by 6A001.a.2.c and 6A001.a.2.f when specially designed for real time applications.

STA: * * *

* * * * *

■ 35. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8—Marine—Export Control Classification Number (ECCN) 8A018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

8A018 Items on the Wassenaar Arrangement Munitions List.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $5000.

* * * * *

■ 36. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8—Marine—Export Control Classification Number (ECCN) 8A918 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

8A918 Marine Boilers.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $5000.

* * * * *

■ 37. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment—Export Control Classification Number (ECCN) 9A018 is amended:

■ a. By revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section; and

■ b. By revising the ''LVS'' paragraph in the ''License Exceptions'' section to read as follows:

9A018 Equipment on the Wassenaar Arrangement Munitions List.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

License Exceptions

LVS: $1500

* * * * *

■ 38. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment—Export Control Classification Number (ECCN) 9A991 is amended by revising the UN

''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

9A991 ''Aircraft,'' n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to 9A991.a.	See § 746.1(b) for UN controls.

* * * * *

■ 39. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment—Export Control Classification Number (ECCN) 9D018 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

9D018 ''Software'' for the ''use'' of equipment controlled by 9A018.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

■ 40. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment—Export Control Classification Number (ECCN) 9E018 is amended by revising the UN ''Control(s)'' paragraph in the ''License Requirements'' section to read as follows:

9E018 ''Technology'' for the ''development,'' ''production,'' or ''use'' of equipment controlled by 9A018.

License Requirements

Reason for Control: * * *

Control(s)	Country chart
* * * * *	
UN applies to entire entry.	See § 746.1(b) for UN controls.

* * * * *

Dated: July 13, 2012.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2012–17757 Filed 7–20–12; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34–67448; File No. S7–06–12]

Commission Guidance Regarding Definitions of Mortgage Related Security and Small Business Related Security

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation; solicitation of comment.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is publishing interpretive guidance with respect to sections 3(a)(41) (the definition of ''mortgage related security'') and 3(a)(53)(A) (the definition of ''small business related security'') of the Securities Exchange Act of 1934 (the ''Exchange Act''), in light of section 939(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''). Section 939(e) strikes provisions in sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act that reference credit ratings issued by nationally recognized statistical rating organizations (''NRSROs''), and inserts new text that provides that in order to satisfy these definitions a security must meet ''standards of credit-worthiness as established by the Commission.'' Because more time is needed to develop and establish standards of creditworthiness for purposes of these definitions, the Commission is providing a transitional interpretation that will be applicable on and after July 20, 2012, and until such time as final Commission rules establishing new standards of creditworthiness become effective. The Commission also is seeking comment on potential standards of creditworthiness that could be established to replace the use of NRSRO credit ratings in the definitions of the terms ''mortgage related security'' and ''small business related security.''

DATES: *Effective Date:* July 20, 2012.

Comments: Comments should be received on or before August 22, 2012.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551–5525; Thomas K. McGowan, Deputy Associate Director, at (202) 551–5521; Randall W. Roy, Assistant Director, at (202) 551–5522; Mark M. Attar, Branch Chief, at (202) 551–5889; Carrie A. O'Brien, Special Counsel, at (202) 551–5640; and Rachel B. Yura, Attorney-Adviser, at (202) 551–5729, Office of Financial Responsibility, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/interp.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–06–12 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–06–12. 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/interp.shtml*). Comments also are 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 3(a)(41) of the Exchange Act defines the term ''mortgage related security'' as, among other things, a security that is rated in one of the *two* highest rating categories by at least one NRSRO.[1] Section 3(a)(53)(A) of the Exchange Act defines the term ''small business related security'' as, among other things, a security that is rated in one of the *four* highest rating categories by at least one NRSRO.[2] A ''rating category'' refers to a distinct level in an NRSRO's rating scale represented by a unique symbol, number, or score. For example, a rating scale consisting of AAA, AA, A, BBB, BB, B, CCC, CC, C, and D has ten rating categories, with the AAA and AA categories being the two

[1] *See* 15 U.S.C. 78c(a)(41).

[2] *See* 15 U.S.C. 78c(a)(53)(A).

highest categories and the AAA through BBB categories being the four highest categories. Securities rated in the two highest categories of such a rating scale are sometimes colloquially referred to as ''highly rated'' and securities rated in the four highest categories as ''investment grade.''

Section 939(e) of the Dodd-Frank Act strikes the text in sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act that reference NRSRO credit ratings and in its place inserts text providing that a ''mortgage related security'' and a ''small business related security'' means a security that ''meets standards of creditworthiness as established by the Commission.'' [3] The effective date of these amendments to the Exchange Act is July 20, 2012.[4]

The Commission previously discussed and requested comment on section 939(e) of the Dodd-Frank Act and potential standards of creditworthiness that could be used for purposes of the terms ''mortgage related security'' and ''small business related security.'' [5] The Commission is continuing to work on rule proposals to establish standards of creditworthiness to implement section 939(e) of the Dodd-Frank Act. However, as explained below, these definitions are referenced in numerous statutes and regulations—the majority of which are not Commission authorizing statutes or regulations administered by the Commission. Consequently, the new standards of creditworthiness established by the Commission under section 939(e) of the Dodd-Frank Act will impact different types of persons and transactions, including persons and transactions for which the Commission does not have oversight authority. This impact adds a layer of complexity to the process of developing and establishing a standard or standards of creditworthiness for each definition. The considerations involved in undertaking this difficult task include seeking to accommodate, to the extent practicable, the varied uses of the definitions of ''mortgage related security'' and ''small business related security'' in statutes and regulations without lowering protections for investors, disrupting the markets for these securities, increasing risk to financial institutions, or imposing undue burdens and costs to market participants.

Furthermore, as explained below, the Commission and other Federal agencies are continuing their efforts to remove references to credit ratings in regulations they administer as mandated by section 939A of the Dodd-Frank Act.[6] In the case of some proposed amendments under section 939A, commenters—as explained below—have raised concerns that replacing the benchmark of credit ratings with another standard could, among other things, be harmful to investors, increase risk to financial institutions, distort financial markets, and increase burdens and costs.

For these reasons, the Commission needs additional time to analyze and understand the potential impact that could result from the establishment of new standards of creditworthiness in the definitions of the terms ''mortgage related security'' and ''small business related security.'' At the same time, under section 939(e) of the Dodd-Frank Act, the use of NRSRO credit ratings in sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act will be stricken from the statutory text on July 20, 2012. Absent further guidance from the Commission, this change could create uncertainty among market participants that rely on these definitions and potentially negatively impact the market for mortgage related securities and small business related securities. In this regard, the Commission does not believe that, in the absence of established standards of creditworthiness by the Commission, Congress intended for the statutory definitions to become unworkable or to create market uncertainty regarding the status or meaning of these definitions. Consequently, the Commission is issuing this transitional interpretation to ensure that the markets can continue to function while the Commission continues its work on rule proposals to establish standards of creditworthiness to implement section 939(e) of the Dodd-Frank Act.

Therefore, until new standards of creditworthiness are established by final rules, the Commission is providing a transitional interpretation that will be applicable beginning on July 20, 2012 with respect to section 3(a)(41) (the definition of ''mortgage related security'') and section 3(a)(53)(A) (the definition of ''small business related security'') of the Exchange Act. Specifically, for purposes of these sections, the Commission interprets the terms ''standards of creditworthiness as established by the Commission'' to mean that on and after July 20, 2012, and until such time as final Commission rules establishing new standards of creditworthiness are effective:

- The standard of creditworthiness for purposes of the definition of the term ''mortgage related security'' in section 3(a)(41) of the Exchange Act is a security that is rated in one of the two highest rating categories by at least one NRSRO; and
- The standard of creditworthiness for purposes of the definition of the term ''small business related security'' in section 3(a)(53)(A) of the Exchange Act is a security that is rated in one of the four highest rating categories by at least one NRSRO.

The Commission is not interpreting any other provisions of sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act herein.

II. Background

A. Use of the Definitions of These Securities

1. Mortgage Related Security

Congress defined the term ''mortgage related security'' in section 3(a)(41) of the Exchange Act as part of the Secondary Mortgage Market Enhancement Act of 1984 (''SMMEA'').[7] SMMEA was intended to encourage private sector participation in the secondary mortgage market by, among other things, relaxing certain regulatory requirements for ''private-label issuers'' [8] to sell mortgage-backed securities.[9] For example, SMMEA: (1) Pre-Empted certain state investment laws to permit state regulated institutions to invest in private-label mortgage-backed securities to the same

[3] *See* Public Law 111–203 § 939(e).

[4] *See* Public Law 111–203 § 939(g).

[5] *See Removal of Certain References to Credit Ratings under the Securities Exchange Act of 1934,* Exchange Act Release No. 64352 (Apr. 27, 2011), 76 FR 26550 (May 6, 2011).

[6] *See* Public Law 111–203 § 939a.

[7] Public Law 98–440, § 101, 98 Stat. 1689 (1984).

[8] Most mortgage-backed securities are issued or guaranteed by the Government National Mortgage Association (''Ginnie Mae''), a U.S. government agency, or the Federal National Mortgage Association (''Fannie Mae'') and the Federal Home Loan Mortgage Corporation (''Freddie Mac''), U.S. government-sponsored enterprises. These securities are commonly referred to as ''agency'' mortgage-backed securities. Ginnie Mae, backed by the full faith and credit of the U.S. government, guarantees that investors receive timely payments. Fannie Mae and Freddie Mac also provide certain guarantees and, while not backed by the full faith and credit of the U.S. government, have special authority to borrow from the U.S. Treasury. Some private institutions, such as brokerage firms, banks, and homebuilders, also securitize mortgages, known as ''private-label'' mortgage-backed securities.

[9] The legislation was aimed at encouraging participation in the secondary mortgage market by investment banks, investment entities, mortgage bankers, private mortgage insurance companies, pension funds and other investors, depositary institutions, and federal credit unions. *See* Kenneth G. Lore & Cameron L. Cowan, Mortgage-Backed Securities; Developments and Trends in the Secondary Market 2–39 (2001), at 1–14. *See also* Edward L. Pittman, *Economic and Regulatory Developments Affecting Mortgage Related Securities,* 64 Notre Dame L. Rev. 497, 499 (1989).

extent as agency securities;[10] (2) granted authority for certain depository institutions to invest in these securities;[11] and (3) required states to exempt private-label mortgage-backed securities from state registration to the same extent as agency securities, unless the state specifically deemed otherwise.[12] A security that qualifies as a mortgage related security under section 3(a)(41) of the Exchange Act receives the benefits intended by SMMEA.[13]

Currently, section 3(a)(41) of the Exchange Act defines the term ''mortgage related security'' as a ''security that is rated in one of the two highest rating categories by at least one [NRSRO]'' and that: (1) Represents ownership of one or more promissory notes, or interests therein, which notes are directly secured by a first lien on a single parcel of real estate upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home or one or more parcels of real estate upon which is located one or more commercial structures and were originated by a savings or banking institution or other similar institution approved for insurance by the Secretary of the U.S. Department of Housing and Urban Development; or (2) is secured by one or more promissory notes, or interests therein, and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes, or interests therein, meeting such requirements.[14]

Table 1 identifies examples of Federal statutes and regulations that refer to the term ''mortgage related security'' as defined under the Exchange Act and indicates the type of entity that is subject to the statute or regulation.

TABLE 1

Citation	Entities subject to requirement
11 U.S.C. 101(47)	Participants in bankruptcy proceedings.
12 U.S.C. 24	National banking associations.
12 U.S.C. 1464	Federal savings associations.
12 U.S.C. 1757	Federal credit unions.
12 U.S.C. 1787	Federal credit unions.
12 U.S.C. 1821	Depository institutions insured by the Federal Deposit Insurance Corporation.
12 U.S.C. 4520	Fannie Mae and any affiliate thereof or Freddie Mac and any affiliate thereof.
12 U.S.C. 4617	Fannie Mae and any affiliate thereof or Freddie Mac and any affiliate thereof.
15 U.S.C. 77r–1	Any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State.
15 U.S.C. 78g	Broker-dealers.
15 U.S.C. 78k	Broker-dealers.
12 CFR 1.2	National banks, District of Columbia banks, and federal branches of foreign banks, State banks that are members of the Federal Reserve System and foreign branches of national banks.
12 CFR Part 3, Appendix A	National banking associations.
12 CFR Part 208, Appendix A	State banks that are members of the Federal Reserve System.
12 CFR Part 225, Appendix A	Bank holding companies.
12 CFR Part 325, Appendix A	Depository institutions insured by the Federal Deposit Insurance Corporation.
12 CFR 567.1	Savings associations.
12 CFR 567.6	Savings associations.
12 CFR 703.2	Federal credit unions.
12 CFR 703.16(d)	Federal credit unions.
12 CFR 704, Appendix C	Corporate credit unions.
12 CFR Part 1750, Appendix A to Subpart B.	Fannie Mae and any affiliate thereof and Freddie Mac and any affiliate thereof.
17 CFR 230.424	Persons filing a prospectus or prospectus supplement relating to an offering of mortgage related securities on a delayed basis.
17 CFR 240.15c3–1	Broker-dealers.

Numerous State laws also contain references to the definition of the term ''mortgage related security'' in section 3(a)(41) of the Exchange Act.[15] The entities subject to these laws include insurance companies, banks, and trusts.[16]

2. Small Business Related Security

Congress defined the term ''small business related security'' in section 3(a)(53)(A) as part of the Riegle Community Development and Regulatory Improvement Act of 1994 (the ''CDRI'').[17] Among other things, the CDRI removed limitations on purchases of certain small business-related securities by national banks.[18] The CDRI was designed to increase small business access to capital by removing impediments in existing law to the securitizations of small business loans.[19] The CDRI created a framework for small business related securities

[10] *See* 15 U.S.C. 77r–1.

[11] *See* 12 U.S.C. 1464(c)(1), 12 U.S.C. 1757, and 12 U.S.C. 24.

[12] *See* 15 U.S.C. 77d. For further discussion of SMMEA, *see also Protecting Investors: A Half Century of Investment Company Regulation,* Division of Investment Management (May 1992).

[13] *See* Pittman, p. 514.

[14] *See* 15 U.S.C. 78c(a)(41).

[15] *See, e.g.,* ALA. CODE §§ 10A–10–1.10 and 11–81–21; ARIZ. REV. STAT. ANN. § 44–1843; ARK. CODE ANN. § 23–42–503; COLO. REV. STAT. ANN. § 11–59.5–101; CONN. GEN. STAT. §§ 36a–459a and 38a–905; DC CODE §§ 31–1372.03 and 31–1372.04; HAW. REV. STAT. § 412:10–502; KAN. STAT. ANN. § 40–2a25; LA. REV. STAT. ANN. 6:611; ME. REV. STAT. 10, § 969–A; ME. REV. STAT. 30–A, § 4722; MD. CODE ANN., INS § 9–229.1; MICH. COMP. LAWS § 500.901; MISS. CODE ANN. § 81–27–5.101; MO. ANN. STAT. § 362.170; N.H. REV. STAT. ANN §§ 392:25 and 392–B:20; N.J. STAT. ANN. § 17:9–41; N.Y. MUN. HOME RULE LAW § 10; N.Y. INS. LAW §§ 1401, 1404, and 1409; N.C. GEN. STAT. ANN. § 53–342; OHIO REV. CODE ANN. §§ 3907.141 and 3925.081; OKLA. STAT. ANN. 6, § 806; OKLA. STAT. ANN. 71, § 1–201; 7 PA. CONS. STAT. ANN. §§ 315 and 502; S.C. CODE ANN. §§ 38–12–220, 38–12–230, 38–12–430, and 38–12–440; TEX. FIN. CODE ANN. §§ 34.101, 184.101, and 443.004; and UTAH CODE ANN. § 61–1–11.

[16] *Id.*

[17] Public Law 103–325, § 202, 108 Stat. 2198 (1994).

[18] *See* Conf. Rep. on H.R. 3474, 140 Cong. Rec. H6685, H6690 (Aug. 2, 1994).

[19] *Id. See also* Remarks of Sen. Domenici, Vol. 140 Cong. Record, p. S11039 (Aug. 2, 1994).

similar to the SMMEA framework for mortgage related securities with the goal of stimulating the flow of funds to small businesses.

Currently, section 3(a)(53)(A) defines the term ''small business related security'' as ''a security that is rated in one of the four highest rating categories by at least one [NRSRO]'' and that either: (1) Represents an interest in one or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution or other similar institution which is supervised and examined by federal or state authority or certain other regulated types of issuers; or (2) is secured by an interest in one or more promissory notes or leases of personal property (with or without recourse to the issuer or lessee) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes or leases of the type described in the preceding clause.[20]

Table 2 identifies examples of Federal statutes and regulations that use the term ''small business related security'' and indicates the type of entity that is subject to the statute or regulation.

TABLE 2

Citation	Entities subject to requirement
12 U.S.C. 24	National banking associations.
12 U.S.C. 1464	Federal savings associations.
12 U.S.C. 1757	Federal credit unions.
15 U.S.C. 77r–1	Any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State.
15 U.S.C. 78g	Broker-dealers.
15 U.S.C. 78k	Broker-dealers.
12 CFR 1.2	National banks, District of Columbia banks, and federal branches of foreign banks, State banks that are members of the Federal Reserve System and foreign branches of national banks.
12 CFR 1.3	National banking associations.
12 CFR 703.2	Federal credit unions.
12 CFR 703.16	Federal credit unions.
12 CFR 704.2	Corporate credit unions.
12 CFR 704.5	Corporate credit unions.

Several State laws also contain references to the definition of the term ''small business related security'' in section 3(a)(53)(A) of the Exchange Act.[21] Banks and trust companies are subject to these laws.[22]

3. Use of the Definitions by the Commission and Other Agencies

As identified in the tables set forth above, rules administered by the Commission and other Federal agencies reference the terms ''mortgage related security'' and ''small business related security,'' as those terms are defined in Exchange Act Sections 3(a)(41) and 3(a)(53)(A), respectively. Since the Dodd-Frank Act was adopted, several Federal agencies have proposed to continue to rely on the Exchange Act definitions of these terms. For example, the Office of the Comptroller of the Currency (the ''OCC'') proposed to retain rule provisions applicable to national banks that reference the statutory definitions of the terms ''mortgage related security'' and ''small business related security'' in the Exchange Act.[23] Similarly, the National Credit Union Administration (the ''NCUA'') also proposed to continue to reference the Exchange Act definitions of the terms ''mortgage related security'' and ''small business related security'' in its rules.[24] However, the NCUA stated in its proposal that in the time period before the Commission moves to specify ''standards of creditworthiness'' for mortgage related securities and small business related securities, a Federal credit union is prohibited from purchasing such security unless the Federal credit union has specific evidence that the Commission considers that security to meet the requirements of section 3(a)(41) or section 3(a)(53)(A), as applicable.[25]

B. Regulatory Initiatives To Remove References to Credit Ratings

1. Introduction

The use of NRSRO credit ratings in statutes and regulations has been criticized as fostering undue reliance by investors on credit ratings.[26] In addition, concerns have been raised that using NRSRO credit ratings in statutes and regulations impedes competition in the credit rating industry by giving NRSROs an unfair advantage over credit rating agencies that do not operate as NRSROs because entities subject to the statutes and regulations, or seeking favorable treatment under the statutes and regulations, must use NRSRO credit ratings.[27]

The Commission has for many years studied the issue of using NRSRO credit ratings in its rules and is engaged in an extensive rulemaking initiative to remove references to NRSRO credit ratings from its rules that commenced

[20] *See* 15 U.S.C. 78c(a)(53)(A).

[21] *See, e.g.,* LA. REV. STAT. ANN. § 6:611; MISS. CODE. ANN. 81–27–5.101; TEX. FIN. CODE ANN. § 34.101; and TEX. FIN. CODE ANN. § 184.101.

[22] *Id.*

[23] *See Alternatives to the Use of External Credit Ratings in the Regulations of the OCC,* 76 FR 73526, 73529 (Nov. 29, 2011), Docket OCC–2011–0019.

[24] *See Removing References to Credit Ratings in Regulations; Proposing Alternatives to the Use of Credit Ratings,* 76 FR 11164, 11166 (Mar. 1, 2011).

[25] *Id.*

[26] *Id.; see also* H.R. Rep. No. 111–517, Joint Explanatory Statement of the Committee of Conference, Title IX, Subtitle C ''Improvement to the Regulation of Credit Rating Agencies,'' at 871–72 (Conf. Rep.) (Jun. 29, 2010) (noting that ''[t]o reduce reliance on ratings, the report amends several statutes to remove references to credit ratings, credit rating agencies and NRSROs'') and *Principles for Reducing Reliance on CRA Ratings,* Financial Stability Board (Oct. 2010) (''The 'hard wiring' of CRA ratings in standards and regulations contributes significantly to market reliance on ratings. This in turn is a cause of the 'cliff effects' of the sort experienced during the recent crisis, through which CRA rating downgrades can amplify procyclicality and cause systemic disruptions. It can be also one cause of herding in market behaviour, if regulations effectively require or incentivise large numbers of market participants to act in similar fashion. But, more widely, official sector uses of ratings that encourage reliance on CRA ratings have reduced banks', institutional investors' and other market participants' own capacity for credit risk assessment in an undesirable way.'').

[27] *See, e.g., Introduction of the Consumer Protection and Regulatory Enhancement Act,* 155 Cong. Rec. E1965, E1965–67 (Jul. 23, 2009) (statement of Rep. Bachus).

prior to enactment of the Dodd-Frank Act. The development of alternatives to NRSRO credit ratings raises complex issues as indicated by comments received by the Commission and other Federal agencies.

2. Regulatory Initiatives

In 1975, the Commission adopted the term ''nationally recognized statistical rating organization'' as part of amendments to the ''net capital rule'' for broker-dealers (Rule 15c3–1).[28] The Commission's initial regulatory use of the term was intended to provide a method for determining net capital charges on different grades of debt securities under Rule 15c3–1.[29] The Commission eventually inserted references to NRSRO credit ratings in other rules under the Securities Act of 1933 (the ''Securities Act''), the Exchange Act, and the Investment Company Act of 1940 (the ''Investment Company Act'').[30] In addition, credit ratings by NRSROs have been used as benchmarks in Federal and State legislation, rules administered by other Federal agencies, and foreign regulatory schemes.[31]

Concerns about the use of NRSRO credit ratings in statutes and regulations have prompted the Commission to study whether this use should be eliminated and whether there are practical alternatives to NRSRO credit ratings that could be used as benchmarks in regulations. For example, in 1994, the Commission published a concept release soliciting comment on whether references to NRSRO credit ratings should be eliminated from its rules.[32] Commenters generally supported the continued use of NRSRO credit ratings.[33] As summarized by the Commission, one commenter noted that the use of NRSRO credit ratings provides an objective, simple standard.[34] Some commenters suggested that internal models could be used for purposes of determining net capital charges under the Commission's broker-dealer net capital rule.[35]

In 2003, the Commission again sought comment on whether to eliminate the use of NRSRO credit ratings from Commission rules, and, if so, what alternative benchmarks could be used to meet the Commission's regulatory objectives.[36] Commenters raised concerns about alternatives to credit ratings, highlighting the challenge of replacing credit ratings, though some commenters stated that alternatives such as internally developed credit ratings could be used.[37]

In July 2008, the Commission proposed amendments to remove references to NRSRO credit ratings from its rules under the Securities Act, Exchange Act, and Investment Company Act.[38] Commenters again raised concerns about alternatives to credit ratings.[39] In October 2009, the Commission adopted several of the proposed amendments and re-opened for comment the remaining amendments.[40] Commenters to the October 2009 re-proposal continued to raise concerns about alternatives to NRSRO credit ratings.[41]

The Dodd-Frank Act—enacted in 2010—includes section 939A.[42] This section requires Federal agencies to ''review any regulation issued by such agency that requires the use of an assessment of the creditworthiness of a security or money market instrument and any references to or requirements in such regulations regarding credit ratings.'' [43] Once the agency has completed that review, the statute

[28] *See Adoption of Uniform Net Capital Rule and an Alternative Net Capital Requirement for Certain Brokers and Dealers,* Exchange Act Release No. 11497 (Jun. 26, 1975), 40 FR 29795 (Jul. 16, 1975), and 17 CFR 240.15c3–1. The net capital rule prescribes minimum net capital requirements for broker-dealers and it uses NRSRO credit ratings to determine the amount of the charge to capital (''haircut'') a broker-dealer must apply to certain types of debt instruments. *See* 17 CFR 240.15c3–1.

[29] *See* 17 CFR 240.15c3–1.

[30] *See, e.g., Report on Review of Reliance on Credit Ratings: As Required by Section 939A(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act,* Commission Staff (Jul. 2011).

[31] *See, e.g., Report to Congress on Credit Ratings,* Board of Governors of the Federal Reserve System (Jul. 2011); *References to Credit Ratings in FDIC Regulations,* Federal Deposit Insurance Corporation (Jul. 2011); and *Stocktaking on the use of credit ratings,* the Joint Forum (Jun. 2009).

[32] *See Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 34616 (Aug. 31, 1994), 59 FR 46314 (Sep. 7, 1994).

[33] *See Capital Requirements for Brokers or Dealers Under the Securities Exchange Act of 1934,* Exchange Act Release No. 39457 (Dec. 17, 1997), 62 FR 68018 (Dec. 30, 1997).

[34] *Id.*

[35] *Id.*

[36] *See Rating Agencies and the Use of Credit Ratings under the Federal Securities Laws,* Exchange Act Release No. 47972 (Jun. 4, 2003), 68 FR 35258 (Jun. 12, 2003). *See also Report of the Role and Function of Credit Rating Agencies in the Operations of the Securities Markets as Required by Section 702(b) of the Sarbanes-Oxley Act of 2002,* Commission (Jan. 2003).

[37] The comment letters are available on the Commission's Internet Web site at the following address: *http://www.sec.gov/rules/concept/s71203.shtml. See, e.g.,* letter dated Jul. 28, 2003 from Gregory V. Serio, Superintendent, New York Insurance Department, Chair, NAIC Rating Agency Working Group, National Association of Insurance Commissioners (stating that replacing NRSRO credit ratings ''could be costly and complicated''); letter dated Jul. 25, 2003 from Steven C. Nelson, Director of Taxable Money Market Research, Fidelity Investments Money Management, Inc. (stating that replacing NRSRO credit ratings in Rule 2a–7 under the Investment Company Act (''Rule 2a–7'') ''would not provide sufficient protection for investors'' in money market funds and ''could lead to significant risk inequality across money market funds''); letter dated Jul. 24, 2003 from Charles M. Nathan, Chair, Committee on Securities Regulation and Nicolas Grabar, Committee on Securities Regulation, Association of the Bar of the City of New York (stating that with respect to replacing NRSRO credit ratings in Rule 2a–7 that a ''change to a more subjective standard could disrupt the market in unpredictable and undesirable ways.''); and letter dated Jul. 28, 2003 from Raymond W. McDaniel, Moody's Investors Service (suggesting internally generated credit ratings as an alternative).

[38] *See References to Ratings of Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 58070 (Jul. 1, 2008), 73 FR 40088 (Jul. 11, 2008).

[39] The comment letters are available on the Commission's Internet Web site at the following addresses: *http://www.sec.gov/comments/s7-18-08/s71808.shtml* (Securities Act rules); *http://www.sec.gov/comments/s7-19-08/s71908.shtml* (Investment Company Act rules); and *http://www.sec.gov/comments/s7-17-08/s71708.shtml* (Exchange Act rules). *See, e.g.,* letter dated Sep. 5, 2008 from Jeffrey T. Brown, Senior Vice President, Charles Schwab & Co., Inc. (stating that replacing NRSRO credit ratings ''may be destabilizing and inject risk and uncertainty into the operations of broker-dealers, investment advisers and money market mutual funds.''); letter dated Sep. 4, 2008 from Deborah A. Cunningham, Chief Investment Officer, Federated Investors and Boyce I. Greer, President, Fixed Income & Asset Allocation, Fidelity, on behalf of the Securities Industry and Financial Markets Association (stating that replacing NRSRO credit ratings would ''be to the detriment of all investors''); letter dated Sep. 10, 2008 from Ronald W. Forbes and Rodney D. Johnson, The Independent Directors of The BlackRock Liquidity Funds (stating that replacing NRSRO credit ratings would ''impose significant and unrealistic new burdens on money market fund boards''); letter dated Sep. 12, 2008 from Keith F. Higgins, Chair, Committee on Federal Regulation of Securities, and Vicki O. Tucker, Chair, Committee on Securitization and Structured Finance, Business Law Section, American Bar Association (stating that replacing NRSRO credit ratings would ''eliminate all objective indicia of credit quality and will provide greater opportunity for abuse.'').

[40] *See References to Ratings of Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 60789 (Oct. 5, 2009), 74 FR 52358 (Oct. 9, 2009) (adopting release). In the adopting release, the Commission amended Exchange Act Rule 3a1–1 (17 CFR 240.3a1–1), Exchange Act Rules 300, 301(b)(5) and 301(b)(6) of Regulation ATS (17 CFR 242.300, 242.301(b)(5) and 242.301(b)(6)), Form ATS–R (17 CFR 249.638) and Form PILOT (17 CFR 249.821). The Commission also adopted amendments to Rules 5b–3 and 10f–3 under the Investment Company Act (17 CFR 270.5b–3 and 17 CFR 270.10f–3). *See also References to Ratings of Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 60790 (Oct. 5, 2009), 74 FR 52374 (Oct. 9, 2009) (re-opening comment for net capital rule purposes and various Exchange Act rules).

[41] The comment letters are available on the Commission's Internet Web site at the following address: *http://www.sec.gov/comments/s7-17-08/s71708.shtml. See, e.g.,* letter dated Dec. 9, 2009 from Steven G. Tepper, Arnold & Porter LLP, letter dated Dec. 8, 2009 from Sean C. Davy, Managing Director, Corporate Credit Markets Division, Securities Industry and Financial Markets Association, and letter dated Dec. 8, 2009 from Karrie McMillan, General Counsel, Investment Company Institute (stating that the removal of ratings from Commission rules would result in ''serious unintended consequences.'').

[42] *See* Public Law 111–203 § 939A.

[43] *See* Public Law 111–203 § 939A(a)(1)–(2).

provides that the agency ''remove any reference to or requirement of reliance on credit ratings, and to substitute in such regulations such standard of creditworthiness'' as the agency determines to be appropriate.[44]

In response to section 939A of the Dodd-Frank Act, the Commission proposed amendments in 2011 to remove references to NRSRO credit ratings in its rules and forms under the Securities Act, the Exchange Act, and the Investment Company Act. In particular, in February 2011, the Commission proposed to remove references to credit ratings in rules and forms promulgated under the Securities Act and the Exchange Act related to offerings of securities or issuer disclosure.[45] In March 2011, the Commission proposed amending certain rules and forms under the Investment Company Act, including Rule 2a–7 governing the operations of money market funds.[46] Further, in April 2011, the Commission proposed to amend additional rules and one form under the Exchange Act applicable to broker-dealer financial responsibility, distributions of securities, and confirmations of transactions.[47] In that same release, the Commission also requested comment on potential standards of creditworthiness for purposes of Exchange Act sections 3(a)(41) and 3(a)(53)(A), in order to consider how to implement section 939(e) of the Dodd-Frank Act.[48] Commenters to the various Commission proposals identified above continued to raise concerns about alternatives to NRSRO credit ratings.[49] Other Federal agencies have proposed and, in some cases, adopted amendments to regulations that they administer that contain references to NRSRO credit ratings.[50] Commenters have raised a number of concerns with respect to these proposals.[51]

As noted above, in its April 2011 proposal to amend rules under the Exchange Act, the Commission sought comment on potential standards of creditworthiness for purposes of sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act.[52] One specific alternative that the Commission discussed and requested comment on was whether a more subjective standard of creditworthiness—modeled on the ''minimal amount of credit risk'' standard proposed with respect to the broker-dealer net capital rule—would be a practical and workable standard of creditworthiness for purposes of the definition of ''mortgage related security'' in section 3(a)(41) of the Exchange Act and ''small business related security'' in section 3(a)(53)(A) of the Exchange Act.[53] Four comment letters addressed this general request for comment.[54] One commenter suggested that using the same standard of creditworthiness as proposed for the net capital rule would be too subjective and that a more objective standard is needed.[55] According to this commenter, a standard that is too subjective could create uncertainty in the markets, which in turn would reduce liquidity and ''limit buyside demand, distribution and secondary trading, thereby further harming the ability of non-Agency securitization to fund mortgage credit.'' [56] Another commenter stated that using the single standard proposed for the net capital rule—the ''minimal amount of credit risk'' standard—may not work given that the definition of ''mortgage related security'' refers to a security that is rated in the two highest categories by an NRSRO and the definition of ''small business related security'' refers to a security that is rated in the four highest categories.[57] The commenter suggested potential alternative standards based on the characteristics of assets underlying the securities.[58] A third commenter acknowledged the ''challenge facing the Commission here is an especially important one, since the alternative standards of credit-worthiness ultimately adopted will undoubtedly

[44] *See* Public Law 111–203 § 939A(b); *see also Report on Review of Reliance on Credit Ratings: As Required by Section 939A(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act,* Commission Staff (Jul. 2011).

[45] *See Security Ratings,* Securities Act Release No. 9186 (Feb. 9, 2011), 76 FR 8961 (Feb. 16, 2011). *See also Security Ratings,* Securities Act Release No. 9245 (Jul. 27, 2011), 76 FR 46603 (Aug. 3, 2011) (adopting amendments to Rules 134 (17 CFR 230.134), 138 (17 CFR 230.138), 139 (17 CFR 230.139), 168 (17 CFR 230.168), Form S–3 (17 CFR 239.13), Form S–4 (17 CFR 239.25), Form F–3 (17 CFR 239.33), and Form F–4 (17 CFR 230. 34) under the Securities Act, rescinded Form F–9 (17 CFR 239.39) and adopted amendments to the Securities Act and Exchange Act forms and rules that referred to Form F–9 to eliminate those references, and amended Schedule 14A (17 CFR 240.14a–101) under the Exchange Act).

[46] *See References to Credit Ratings in Certain Investment Company Act Rules and Forms,* Securities Act Release No. 9193 (Mar. 3, 2011), 76 FR 12896 (Mar. 9, 2011). In particular, the Commission requested public comment on proposed amendments to rules 2a–7 (17 CFR 270.2a–7) and 5b–3 (17 CFR 270.5b–3) under the Investment Company Act, to Forms N–1A (17 CFR 239.15A and 17 CFR 274.11A), N–2 (17 CFR 239.14 and 17 CFR 274.11a–1) and N–3 (17 CFR 239.17a and 17 CFR 274.11b) under the Investment Company Act and the Securities Act, and Form N–MFP (17 CFR 274.201) under the Investment Company Act.

[47] *See Removal of Certain References to Credit Ratings under the Securities Exchange Act of 1934,* 76 FR 26550. In particular, the Commission requested public comment on proposed amendments to Exchange Act Rule 15c3–1 (17 CFR 240.15c3–1), 15c3–3 (17 CFR 240.15c3–3), 17a–4 (17 CFR 240.17a–4), 101 and 102 of Regulation M (17 CFR 242.101 and 242.102), and 10b–10 (17 CFR 240.10b–10), and one Exchange Act form—Form X–17A–5, Part IIB (17 CFR 249.617)—to remove references to credit ratings and, in certain cases, substitute alternative standards of creditworthiness.

[48] *Id.*

[49] *See* comment letters to the proposals available on the Commission's Internet Web site at the following addresses: (1) *http://www.sec.gov/comments/s7-18-08/s71808.shtml* (letters commenting on *Security Ratings,* 76 FR 8961); (2) *http://sec.gov/comments/s7-07-11/s70711.shtml* (letters commenting on *References to Credit Ratings in Certain Investment Company Act Rules and Forms,* 76 FR 12896); and (3) *http://sec.gov/comments/s7-15-11/s71511.shtml* (letters commenting on *Removal of Certain References to Credit Ratings under the Securities Exchange Act of 1934,* 76 FR 26550). *See, e.g.,* letter dated Apr. 25, 2011 from Dennis M. Kelleher, President & CEO of Better Markets, Inc., commenting on *References to Credit Ratings in Certain Investment Company Act Rules and Forms,* 76 FR 12896 (''In theory, incorporating alternative standards of credit-worthiness into the Commission's rules can be accomplished in one of two ways: Either incorporating by reference some reliable, external measure of credit-worthiness other than credit ratings, or setting forth in the rules the actual standards of credit-worthiness that market participants must apply * * * As a practical matter, a reliable and objective shorthand measure of credit risk, which could be incorporated by reference into the Commission's regulations, is not currently available.'').

[50] *See, e.g., Alternatives to the Use of External Credit Ratings in the Regulations of the OCC,* Department of the Treasury, Office of the Comptroller of the Currency, 76 FR 73526 (Nov. 29, 2011).

[51] *See, e.g.,* comments submitted in response to *Alternatives to the Use of External Credit Ratings in the Regulations of the OCC,* 76 FR 73526, *available at http://www.regulations.gov/#!searchResults;a=OCC;rpp=25;po=0;dktid=OCC-2011-0019.*

[52] *See Removal of Certain References to Credit Ratings under the Securities Exchange Act of 1934,* 76 FR at 26566.

[53] *Id.*

[54] *See* letter dated Jun. 6, 2011 from Chris Barnard (the ''Barnard Letter''); letter dated Jul. 5, 2011 from Dennis M. Kelleher, President & CEO, and Stephen W. Hall, Securities Specialist, Better Markets, Inc. (the ''Better Markets Letter''); letter dated Sep. 23, 2011 from Richard A. Dorfman, Managing Director, Head of Securitization, and Christopher B. Killian, Vice President, Securitization Group, Securities Industry and Financial Markets Association (the ''SIFMA Letter''); and letter dated Dec. 20, 2011 from Kurt N. Schacht, Managing Director, Standards and Financial Market Integrity, and Linda L. Rittenhouse, Director, Capital Markets Policy, CFA Institute (the ''CFA Letter'').

[55] *See* the SIFMA Letter.

[56] *Id.*

[57] *See* the CFA Letter.

[58] *Id.* (''With respect to objective measures that could be used to determine whether securities qualify as mortgage-related securities or small business-related securities, we suggest consideration of the following factors: Average loan-to-value for borrowers in secured borrowings; Term to maturity of the security; Regional concentrations of loans within the pools; Loan category concentration of loans within the pools, such as loans secured with either commercial or residential real estate, commercial and industrial loans, or small business credit card loans; Average debt-to-equity ratios for the loan pools supporting small business-related securities; Guarantees for bond guarantors.'').

have an impact on a huge number of investors.'' [59] The commenter supported using the ''minimal amount of credit risk'' standard provided that an appropriate set of factors were incorporated into the test.[60] The fourth commenter supported the ''minimal amount of credit risk'' standard without elaboration.[61]

III. Solicitation of Comment

The Commission solicits comment on section 939(e) of the Dodd-Frank Act and potential standards of creditworthiness that could be used for the definition of the terms ''mortgage related security'' in section 3(a)(41) of the Exchange Act and ''small business related security'' in section 3(a)(53)(A) of the Exchange Act in order to assist the Commission in developing proposed standards of creditworthiness to replace NRSRO credit ratings. The Commission seeks comment from all interested parties, including: (1) Persons that are subject to, or rely on, Federal or State statutes and/or regulations that use these definitions; (2) Federal and State agencies that oversee persons that are subject to, or rely on, Federal or State statutes and/or regulations that use these definitions; (3) Federal and State agencies that administer regulations that use these definitions; (4) persons that participate in the markets for mortgage related securities and/or small business related securities, including issuers, underwriters, investors, and NRSROs; (5) originators of mortgages and/or small business loans that are securitized into mortgage related securities and/or small business related securities; and (6) any other interested persons, including persons that will need to rely on the standards of creditworthiness the Commission establishes to replace the use of NRSRO credit ratings.

The Commission invites commenters to provide their views and recommendations on all aspects of section 939(e) of the Dodd-Frank Act, including identifying approaches for developing new standards and creditworthiness to be used in the definitions and the benefits, costs, and competitive impacts of such approaches. To supplement the April 2011 proposing release and its formal solicitation of comments,[62] the Commission seeks comments on the following questions and topics:

1. To help the Commission obtain relevant market information, commenters are invited to provide data and statistics on the nature of the market for ''mortgage related securities'' as defined in section 3(a)(41) of the Exchange Act, including the size of the market in terms of the number and aggregate principal amount of issuances per year.

2. To help the Commission obtain relevant market information, commenters are invited to provide data and statistics on the nature of the market for ''small business related securities'' as defined in section 3(a)(53)(A) of the Exchange Act, including the size of the market in terms of the number and aggregate principal amount of issuances per year.

3. With respect to establishing a standard of creditworthiness to be used in the definition of the term ''mortgage related security,'' would any of the proposals or final rules by the Commission and other Federal agencies under section 939A of the Dodd-Frank Act serve as a model to develop a practical and workable new standard of creditworthiness in section 3(a)(41) of the Exchange Act? If so, identify the proposal and explain how it may accommodate the varied uses of the definition of the term ''mortgage related security'' in statutes and regulations as well as how it may impact protections for investors, the market for these securities, risk to the financial system, and burdens and costs to market participants. Are there other approaches that could serve as models for developing a practical and workable new standard of creditworthiness in section 3(a)(41) of the Exchange Act? If so, identify the approach and explain how it would meet the Commission's objective.

4. With respect to establishing a standard of creditworthiness to be used in the definition of ''small business related security,'' would any of the proposals or final rules by the Commission and other Federal agencies under section 939A of the Dodd-Frank Act serve as a model to develop a practical and workable new standard of creditworthiness in section 3(a)(53)(A) of the Exchange Act? If so, identify the proposal and explain how it may accommodate the varied uses of the definition of the term ''small business related security'' in statutes and regulations as well as how it may impact protections for investors, the market for these securities, risk to the financial system, and burdens and costs to market participants. Are there other approaches that could serve as models for developing a practical and workable new standard of creditworthiness in section 3(a)(53)(A) of the Exchange Act? If so, identify the approach and explain how it would meet the Commission's objective.

5. Should the new standards of creditworthiness in sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act be modeled on Commission proposals under section 939A of the Dodd-Frank Act that would replace the use of NRSRO credit ratings with definitional standards? For example, as discussed above, the Commission proposed to remove references to NRSRO credit ratings in the net capital rule for purposes of determining whether lower haircuts apply to certain debt instruments.[63] In place of credit ratings, the Commission proposed a new standard of creditworthiness; namely, that the debt instrument has only ''a minimal amount of credit risk'' as determined by the broker-dealer pursuant to written policies and procedures the broker-dealer establishes, maintains, and enforces to assess creditworthiness. Would such a definitional approach be a practical and workable standard of creditworthiness for sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act? In this regard, the Commission seeks comment in response to the following questions:

a. Would there need to be different creditworthiness definitions for the terms ''mortgage related security'' and ''small business related security'' given that the current standard in section 3(a)(41) of the Exchange Act is a security that is rated in one of the *two* highest rating categories by at least one NRSRO and the current standard in section 3(a)(53)(A) of the Exchange Act is a security that is rated in one of the *four* highest rating categories by at least one NRSRO? For example, should the standard of creditworthiness for purposes of the definition of the term ''mortgage related security'' require a more stringent level of creditworthiness than the standard of creditworthiness in the definition of the term ''small business related security''? If so, should the Commission use the ''minimal amount of credit risk'' standard proposed for the net capital rule for a small business related security and a different, more stringent standard of creditworthiness for a mortgage related security?

b. Under the Commission's net capital rule proposal, the broker-dealer holding the security would be required to determine whether the security has a ''minimal amount of credit risk.'' As noted above, the statutes and

[59] *See* the Better Markets Letter.

[60] *Id.*

[61] *See* the Barnard Letter.

[62] *See Removal of Certain References to Credit Ratings under the Securities Exchange Act of 1934,* 76 FR 26550.

[63] *See Removal of Certain References to Credit Ratings under the Securities Exchange Act of 1934,* 76 FR at 26552–54.

regulations using the definitions of ''mortgage related security'' and ''small business related security'' implicate a range of market participants. Consequently, who could be responsible for making the determination that a security meets the definitional creditworthiness standard used for purposes of sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act? For example, could the issuer or underwriter represent that the security meets the definitional standard? If so, should the representation be made as of a point in time (*e.g.,* at or before issuance of the security) and/or would it need to be updated throughout the term of the debt security? Alternatively, if the investor in the security is subject to oversight and inspection by a Federal or State agency, could the investor be required to make the determination (subject to review by the agency) as to whether the security meets the definitional standard of creditworthiness in order to obtain favorable treatment under an applicable statute or regulation using the definition of ''mortgage related security'' or ''small business related security''? Could the issuer or underwriter be required to make the representation that the security meets the definitional standard at issuance and, thereafter, the investor be responsible for determining on an on-going basis whether the security continues to meet the definitional standard? Issuers, underwriters, and investors may have incentives to determine that a security meets the definitional standard in order to get favorable treatment under statutes and regulations using the terms ''mortgage related security'' or ''small business related security.'' Given this potential conflict, could a third-party be required to verify that the security meets the definitional standard? If so, what type of entity could perform the verification and who would be responsible for compensating the third-party for this work?

c. The following examples of different possible definitional standards are designed to provide context to assist commenters in responding to the questions above:

Mortgage Related Security

Example 1

For purposes of section 3(a)(41) of the Act (15 U.S.C. 78c(a)(41)), a ''mortgage related security'' means a security that has virtually no credit risk, including virtually no vulnerability to changes in business or economic circumstances.

Example 2

For purposes of section 3(a)(41) of the Act (15 U.S.C. 78c(a)(41)), a ''mortgage related security'' means a security that the issuer or underwriter of the security represents has virtually no credit risk, including virtually no vulnerability to changes in business or economic circumstances.

Example 3

For purposes of section 3(a)(41) of the Act (15 U.S.C. 78c(a)(41)), a ''mortgage related security'' means a security that the issuer or underwriter of the security represents at the time of issuance has virtually no credit risk, including virtually no vulnerability to changes in business or economic circumstances, and thereafter has virtually no credit risk, including virtually no vulnerability to changes in business or economic circumstances.

Example 4

For purposes of section 3(a)(41) of the Act (15 U.S.C. 78c(a)(41)), a ''mortgage related security'' means a security that the issuer or underwriter of the security represents has virtually no credit risk, including virtually no vulnerability to changes in business or economic circumstances. The representation of the issuer or underwriter must be verified by an independent third party that is in the business of performing credit analysis.

Small Business Related Security

Example 1

For purposes of section 3(a)(53)(A) of the Act (15 U.S.C. 78c(a)(53)), a ''small business related security'' means a security that has only a minimal amount of credit risk.

Example 2

For purposes of section 3(a)(53)(A) of the Act (15 U.S.C. 78c(a)(53)), a ''small business related security'' means a security that the issuer or underwriter of the security represents has only a minimal amount of credit risk.

Example 3

For purposes of section 3(a)(53)(A) of the Act (15 U.S.C. 78c(a)(53)), a ''small business related security'' means a security that the issuer or underwriter of the security represents at the time of issuance has only a minimal amount of credit risk and thereafter has only a minimal amount of credit risk.

Example 4

For purposes of section 3(a)(53)(A) of the Act (15 U.S.C. 78c(a)(53)), a ''small business related security'' means a security that the issuer or underwriter of the security represents has only a minimal amount of credit risk. The representation of the issuer or underwriter must be verified by an independent third party that is in the business of performing credit analysis.

d. Provide additional examples of definitions that could be used as standards of creditworthiness. For any example provided, explain why it would be a practical and workable standard for purposes of the definitions of mortgage related security and small business related security.

6. Rather than using a definitional standard, could the new standards of creditworthiness in sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act be based on objective criteria? For example, could the criteria be based on structural characteristics of securities that meet the current definitions of the terms ''mortgage related security'' and ''small business related security'' such as the features, underlying asset pool quality, and the performance of the underlying assets after issuance that are typical of such securities? If so, what characteristics could be used to develop the criteria? In this regard, the Commission seeks comment in response to the following questions:

a. What are the typical features of mortgage related securities that meet the current standard of creditworthiness in section 3(a)(41) of the Exchange Act (*i.e.,* rated in the top two rating categories by at least one NRSRO)?

b. What are the characteristics of the loans underlying mortgage related securities that meet the current standard of creditworthiness in section 3(a)(41) of the Exchange Act (*i.e.,* rated in the top two rating categories by at least one NRSRO)? Would the characteristics of a ''qualified mortgage,'' as that term is defined under the Truth in Lending Act section 129C(b)(2), meet the current standard of creditworthiness in section 3(a)(41)? Could the criteria for a mortgage related security be tied to that definition? Could the criteria be tied to the definition of a ''qualified residential mortgage,'' as is used in section 15G of the Exchange Act?[64] If so, explain how.

c. What is typical of the level of performance of the loans underlying mortgage related securities that meet the current standard of creditworthiness in section 3(a)(41) of the Exchange Act (*i.e.,* rated in the top two rating categories by at least one NRSRO)?

d. What are the typical features of small business related securities that meet the current standard of creditworthiness in section 3(a)(53)(A) of the Exchange Act (*i.e.,* rated in the top four rating categories by at least one NRSRO)?

e. What are the characteristics of the loans underlying small business related securities that meet the current standard of creditworthiness in section 3(a)(53)(A) of the Exchange Act (*i.e.,*

[64] On April 29, 2011, the Commission, together with the Office of Comptroller of the Currency, Treasury, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Department of Housing and Urban Development, published a joint notice of public comment to implement the risk retention requirements of Section 15G, including the proposed requirements for a qualified residential mortgage. *See Credit Risk Retention,* Exchange Act Release No. 64148 (Mar. 30, 2011), 76 FR 24090 (Apr. 29, 2011). The proposed definition has been the subject of significant comment.

rated in the top four rating categories by at least one NRSRO)?

f. What is typical of the level of performance of the loans underlying small business related securities that meet the current standard of creditworthiness in section 3(a)(53)(A) of the Exchange Act (*i.e.,* rated in the top four rating categories by at least one NRSRO)?

7. Could the requirements of Regulation AB or the proposed shelf eligibility requirements described below serve, in whole or in part, as a standard for creditworthiness for a mortgage related security? In 2010, the Commission proposed to eliminate the provision for shelf eligibility for mortgage related securities regardless of the form that can be used for registration of the securities.[65] Under the proposal, offerings of mortgage related securities would only be eligible for shelf registration on a delayed basis if, like other asset-backed securities, they meet the proposed criteria for eligibility for shelf registration that would be contained in new proposed Form SF–3. Note that the proposed requirements for shelf eligibility would replace, in part, the requirement that the securities be investment grade rated.[66] Could the standards distinguish between issuers that meet the shelf eligibility requirements and those that do not? If so, why and how should the conditions differ? Could we require that a mortgage related security be required to be registered on existing Form S–3 or, if adopted, Form SF–3? Commentators should be specific in their responses and provide data and statistics, if possible.

IV. Conclusion

For the foregoing reasons, the Commission is providing a transitional interpretation that will be applicable on and after July 20, 2012, and until such time as final Commission rules establishing new standards of creditworthiness are effective. The Commission's interpretation herein does not address any other provisions of the definitions of ''mortgage related security'' or ''small business related security'' in sections 3(a)(41) and 3(a)(53)(A) of the Exchange Act, respectively.

List of Subjects in 17 CFR Part 241

Securities.

Amendment to the Code of Federal Regulations

For the reasons set forth above, the Commission is amending title 17, chapter II of the Code of Federal Regulations as set forth below:

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ Part 241 is amended by adding Release No. 34–67448 to the list of interpretive releases as follows:

Subject	Release No.	Date	Federal Register vol. and page
Commission Guidance Regarding Definitions of Mortgage Related Security and Small Business Related Security.	34–67448	July 17, 2012	75 FR [INSERT FR PAGE NUMBER].

By the Commission.

Dated: July 17, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–17763 Filed 7–20–12; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. OSHA–2011–0184]

RIN 1218–AC65

Updating OSHA Construction Standards Based on National Consensus Standards; Head Protection; Correction of Direct Final Rule

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Direct final rule; correction.

SUMMARY: OSHA is correcting a direct final rule (DFR) with regard to the construction industry head protection standards to eliminate confusion resulting from a drafting error. OSHA published the DFR on June 22, 2012 (77 FR 37587). OSHA also is publishing a correction to the proposed rule that it published the same day in the **Federal Register** (77 FR 37617).

DATES: This correction to the direct final rule will become effective on September 20, 2012.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Contact Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

Technical inquiries: Contact Kenneth Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663; email: *stevanus.ken@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA is making the following correction in FR document number 2012–15030, appearing on page 37600 in the **Federal Register** of Friday, June 22, 2012:

§ 1926.100 [Corrected]

On page 37600, correct instruction number 16, to read as follows:

■ 16. Amend § 1926.100 as follows:

■ a. Remove paragraph (c).

■ b. Revise paragraph (b) to read as follows:

1926.100 Head protection.

* * * * *

(b) *Criteria for head protection.* (1) The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head

[65] *See Asset-Backed Securities,* Securities Act Release No. 9117 (Apr. 7, 2010), 75 FR 23328 (May 3, 2010).

[66] In July 2011, in light of the Dodd-Frank Act and comments received, the Commission re-proposed the shelf eligibility requirements that would replace the investment grade ratings criteria. *See Re-proposal of Shelf Eligibility Conditions for Asset-Backed Securities and Other Additional Requests for Comment,* Release No. 33–9244 (Jul. 26, 2011), 76 FR 47948 (Aug. 5, 2011).

Protection,'' incorporated by reference in § 1926.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1926.6.

(2) The employer must ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 (''Electrical Insulation'') of any of the consensus standards identified in paragraph (b)(1) of this section.

(3) OSHA will deem any head protection device that the employer demonstrates is at least as effective as a head protection device constructed in accordance with one of the consensus standards identified in paragraph (b)(1) of this section to be in compliance with the requirements of this section.

Signed at Washington, DC, on July 17, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2012–17872 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS LEYTE GULF (CG 55) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective July 23, 2012 and is applicable beginning July 11, 2012.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jocelyn Loftus-Williams, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS LEYTE GULF (CG 55) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a), pertaining to the horizontal distance between the forward and after masthead lights. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, amend part 706 of title 32 of the CFR as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended in Table Five by revising the entry for USS LEYTE GULF (CG 55) to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward mast-head light Annex I, sec. 3(a)	Percentage horizontal separation attained
* * *		*	*	*	*
USS LEYTE GULF	CG 55		X	X	36.9
* * *		*	*	*	*

Approved: July 11, 2012.

C.J. Spain,

Acting Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: July 13, 2012.

D.G. Zimmerman,

Lieutenant Commander, Alternate Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2012–17874 Filed 7–20–12; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2010–1075; FRL–9354–2]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for the chemical substances rutile, tin zinc, calcium-doped (CAS No. 389623–01–2) and rutile, tin zinc, sodium-doped (CAS No. 389623–07–8) which were the subject of premanufacture notices (PMNs P–06–36 and P–06–37) and a TSCA consent order issued by EPA. This action requires persons who intend to manufacture, import, or process either of the chemical substances for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity. EPA believes that this action is necessary because new uses of the chemical substances may be hazardous to human health. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit the activity before it occurs.

DATES: This final rule is effective August 22, 2012.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2010–1075. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *alwood.jim@epa.gov.*

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA–Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, import, process, or use either of the chemical substances contained in this final rule. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of the subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a final SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the agency taking?

EPA is finalizing SNURs under TSCA section 5(a)(2) for two chemical substances which were the subject of PMNs and a TSCA section 5(e) consent order. The two chemical substances are identified as rutile, tin zinc, calcium-doped (PMN P–06–36; CAS No. 389623–01–2) and rutile, tin zinc, sodium-doped (PMN P–06–37; CAS No. 389623–07–8). The final SNURs on these substances are based on and consistent with the provisions in the underlying consent order. The final SNURs designate as a significant new use manufacture (including import) or processing in the absence of the protective measures required in the corresponding consent order. This action requires persons who intend to manufacture, import, or process either of these two chemical substances for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** issue of October 5, 2011 (76 FR 61566) (FRL–8880–2), EPA issued direct final SNURs on these two chemical substances (see §§ 721.10230 and 721.10231). However, EPA received notices of intent to submit adverse comments on these SNURs. Therefore,

as required by § 721.160(c)(3)(ii), in the **Federal Register** issue of December 5, 2011 (76 FR 75794) (FRL–9329–5), EPA withdrew the direct final SNURs on these two chemical substances and subsequently proposed SNURs using notice and comment procedures in the **Federal Register** issue of December 28, 2011 (76 FR 81441) (FRL–9329–4). More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents announcing the direct final SNURs or the proposed SNURs. The record for the SNURs on these two chemical substances was established in the docket under docket ID number EPA–HQ–OPPT–2010–1075. That docket includes information considered by the Agency in developing the direct final rule and this final rule including comments on those rules.

EPA received several comments on the proposed rule. A full discussion of EPA's response to these comments is included in Unit V. of this document. Based on these comments, EPA is issuing a modified final rule on these chemical substances that:

1. Revises the protection in the workplace and hazard communication provisions.

2. Retains the industrial, commercial, and consumer activities provisions.

In response to the comments, EPA is including in the regulatory text the following modifications:

- Revision to the protection in the workplace provision in paragraph (a)(2)(i)(*1*) to reflect a New Chemical Exposure Limit (NCEL) of 2.4 mg/m^3.
- Revision to the hazard communication provision in paragraph (a)(2)(ii) to reflect an NCEL of 2.4 mg/m^3.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the final rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Rationale and Objectives of the Final Rule

A. Rationale

During review of the PMNs submitted for these two chemical substances, EPA concluded that regulation was warranted under TSCA section 5(e)(1)(A)(ii)(I), pending the development of information sufficient to make reasoned evaluations of the human health effects of the chemical substances. Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent order. These final SNURs are issued pursuant to § 721.160. See the docket under docket ID number EPA–HQ–OPPT–2010–1075 for the corresponding consent order. For additional discussion of the rationale for the SNURs on these chemicals, see Units II. and V. of this document.

B. Objectives

EPA is issuing these final SNURs for specific chemical substances that have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this final rule:

- EPA will receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.
- EPA will ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the two chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

V. Response to Comments on Proposed SNURs

EPA received comments from numerous submitters on the proposed rules for rutile, tin zinc, calcium-doped (PMN P–06–36; CAS No. 389623–01–2) and rutile, tin zinc, sodium-doped (PMN P–06–37; CAS No. 389623–07–8). A summary and discussion of the comments received and the Agency's responses follow.

Comment 1: In the proposed SNUR, EPA clarified that it considers nanomaterials to include substances with a particle size less than 100 nanometers (nm) where d10 particle size presents the particle size as determined by laser light scattering at which 10 percent by weight of the substance measured is smaller. The commenter supports this approach based on the need for a threshold since solid particulate material will contain a distribution of particle sizes. The 10 percent threshold strikes a reasonable balance between being adequately protective of human health and recognizing practical limitations associated with analytical methods available for quantifying materials at or below such a threshold. The commenter supports using the weight-based threshold, as methods and instrumentation for performing weight-based particle size measurements are more widely available than techniques for performing measurements based on particle number. There are other important elements that should be included in any definition of a nanomaterial including recognizing that aggregates and agglomerates are not the same as the primary particles of which they are comprised and that many agglomerates may not disagglomerate readily in any medium.

EPA Response: In the proposed rule, EPA did not attempt to clarify what it considers to be a definition of a nanomaterial, although particle size of less than 100 nm is often used to describe such chemical substances. Based on information contained in the PMNs, EPA believes that the PMN submitter is not manufacturing or processing the PMN substances with a d10 particle size less than 100 nm. EPA also believes it is possible that these chemical substances could be manufactured or processed with a d10 particle size less than 100 nm. EPA proposed a new use in the SNURs for these two PMN substances to require notification if those chemical substances were manufactured or processed with a d10 particle size less than 100 nm. Upon notification of this new use, EPA would review the properties and assess any potential risks that were different from the chemical substances as reported in the PMNs. While EPA believes that the threshold and method used to measure particle size for these PMN substances is appropriate and protective of human health, EPA will consider different thresholds and methods in other TSCA actions, depending on the chemical substances being measured and available scientific knowledge and technology.

Comment 2: The PMN substances are not nanoscale substances and any concerns or regulatory requirements derived from concerns related to nanoscale materials are not pertinent to the PMN substances.

EPA Response: As described in the consent order, the basis for EPA's concerns for the PMNs is not whether the substances constitute nanoscale materials but rather the fact that they qualify under the new chemicals category for respirable, poorly soluble particulates, under the subcategory of titanium dioxide (see *http://www.epa.gov/oppt/newchems/pubs/chemcat.htm*). The category document identifies that there is potential for respirability if workers handle material containing any particles less than or equal to 10 microns in diameter. Based on information in the PMNs, workers are likely to be exposed to particles less than or equal to 10 microns in diameter. In addition, based on information contained in the PMNs, EPA believes that manufacturers and processors could use these chemical substances at particle sizes less than 100 nm. Accordingly, EPA has proposed new uses that would enable EPA to review any manufacture or processing of the PMN substance without the use of appropriate respiratory protective equipment or engineering controls, or at particle sizes less than 100 nm. The purpose of these notifications (i.e., SNUNs) is to allow EPA to review any new properties and assess any potential risks presented by the new use.

Comment 3: EPA's risk assessment stated there is no exposure expected to the PMN substances, according to the human health effects summary in the consent order. EPA determined that there can be no risk warranting regulation under the proposed rule, because of the statement that no absorption of the PMNs is expected via any route of exposure if the PMN substances are produced via the calcination method. The PMN substances can only be manufactured using the calcining process and there is no known alternative industrial process for making chemical substances such as the PMN substances. Based on review of EPA's risk assessment in the 5(e) consent order and the extensive experience of the Color Pigment Manufacturers Association (CPMA) members with similar products, there is no substantiation of potential risk in the record for the proposed rule or the necessity for any regulation of the PMN substances.

EPA Response: The human health effects summary, contained in Unit IV. (''EPA's Assessment of the Risk'') of the consent order does not address potential exposures to the PMN substances; workplace inhalation exposures are addressed in a separate exposure summary of the same Unit IV. The health effects summary does state, however, that if the PMN substances are calcined then EPA does not expect the PMN substances to be absorbed by any route of exposure. In addition, the health effects summary identifies concerns for potential lung effects from exposure to the PMN substances, according to the chemical category for respirable, poorly soluble particulates under the subcategory of titanium dioxide (see *http://www.epa.gov/oppt/newchems/pubs/chemcat.htm*). There is concern for the potential lung effects when workers handle material containing particles less than or equal to 10 microns in diameter. Based on information in the PMNs, workers are likely to be exposed to particles less than or equal to 10 microns in diameter. The concern for lung effects is not mitigated by calcination; the concern is independent of potential for absorption. In fact, because these insoluble particles are not absorbed, they remain in the lung longer than other particles, causing further inflammation and lung effects. As mentioned earlier in this response, the exposure summary in the consent order identifies potential inhalation to workers. Based on the potential hazard and exposure to workers, EPA concluded that the PMN substances may present an unreasonable risk of lung effects to exposed workers. The commenter did not provide any specific information regarding CPMA's extensive experience with similar products to refute EPA's risk finding for the PMN substances.

Comment 4: EPA should clarify that the PMN substances are not salts. It is incorrect for EPA to characterize these chemical substances as salts. EPA's health risk analysis based on structural analogs does not demonstrate a risk warranting regulation because the regulated substances do not exhibit the properties of the constituent metals and do not represent an unregulated dust exposure. Titanium dioxide is not an analog surrogate for the PMN

substances. EPA's assessment should evaluate the risk of the finished crystal form of the PMN substances.

EPA Response: EPA is not characterizing the PMN substances as salts or as the constituent metals, and the structural analogy in the consent order was not based on analogy to salts or constituent metals. EPA's structural activity relationship (SAR) analysis was based on the category of respirable, poorly soluble particulates that cause lung effects as a result of inhaling particles (see *http://www.epa.gov/oppt/newchems/pubs/chemcat.htm).* Titanium dioxide was chosen as the subcategory based on its physical characteristics as a poorly soluble particulate, and not any chemically-mediated toxicological properties. The risk assessment, as described in the response to comment 3, is consistent with the Agency's concerns that potential exposure to particles of the finished crystal form of the PMN substances may cause an unreasonable risk of lung effects.

Comment 5: EPA relied on a recommended exposure level (REL) from the draft National Institute for Occupational Safety and Health (NIOSH) Current Intelligence Bulletin: Occupational Exposure to Titanium Dioxide as the source of the proposed NCEL of 1.5 mg/m^3. Since the final NIOSH intelligence bulletin set a higher REL of 2.4 mg/m^3, EPA should revise its risk assessment to incorporate this new information.

EPA Response: EPA agrees that using the REL of 2.4 mg/m^3 for titanium dioxide, from the final NIOSH bulletin, would be more appropriate. This document is located in the docket under docket ID number EPA–HQ–OPPT–2010–1075. In fact, paragraph (b)(2) of the NCEL of the consent order for the PMN substances contains an automatic sunset clause stating that the NCEL in the consent order would automatically and immediately be changed to the final REL for titanium dioxide issued by NIOSH. Accordingly, EPA will issue the final SNURs with a NCEL of 2.4 mg/m^3, based on the final NIOSH REL for titanium dioxide. However, because EPA estimates that there are potential exposures greater than 2.4 mg/m^3, EPA continues to find a potential risk of concern for the PMN substances.

Comment 6: These chemical substances are subject to existing Occupational Safety and Health Administration (OSHA) Permissible Exposure Levels (PELs) for inorganic tin compounds. Given the existing applicable OSHA PELs, the proposed SNURs are duplicative and unnecessary regulation. The NCELs provisions in the section 5(e) order states that the NCEL and respirator requirements are automatically nullified if OSHA promulgates a PEL for the same substance. There is a separate OSHA standard, applicable to all inert dust particles, of 5 mg/m^3. There is no need for EPA to require the development of additional and different regulatory monitoring techniques for the PMN substances because there are already analytical monitoring techniques developed for inorganic tin compounds and inert dust particles.

EPA Response: While the OSHA PEL for inorganic tin compounds would be applicable to the inorganic tin contained in the PMN substances, it does not apply to the PMN substances themselves. Based on information submitted in the PMNs, EPA considers the substances to be mixed metal oxide compounds. Previous comments made the argument that the constituent metals are not bioavailable and there should not be concern for exposure to bioavailable metals from the PMN substances. EPA agreed that it is not characterizing the PMN substances as metals and the basis of its risk assessment is not the constituent metals contained in the PMN substances. See EPA's response to comment 4. Therefore, the OSHA PEL for inorganic tin does not adequately address potential risks from the PMN substances. While there is an OSHA inert dust standard of 5 mg/m^3, EPA finds there is still a potential risk for lung effects from exposures less than 5 mg/m^3 for the PMN substances. Paragraph (b)(2) of the NCEL of the consent order for the PMN substances does state, that if OSHA promulgates a PEL specifically applicable to the PMN substances then the respirator requirements and NCEL become null and void. This paragraph (b)(2) also states that the requirements of the consent order are not negated by any pre-existing OSHA PEL, such as the PEL for inorganic tin compounds cited by the commenters. Because OSHA has not promulgated a PEL specifically applicable to the PMN substances, the respirator requirements and NCEL requirements in the consent order for the PMN substances remain in effect. Neither the PMN submitter nor commenters have supplied any information on whether existing monitoring techniques used for inorganic tin compounds would be appropriate for use with the PMN substances. EPA has issued the consent order and will issue the final SNURs with the NCEL provisions to allow for review of any monitoring techniques for the PMN substances that would be used to demonstrate compliance with the exposure limits.

Comment 7: The costs and economic impacts of the rule are underestimated significantly. Customers may not use the PMN substances because of compliance costs. Manufacturers of the PMN substances will incur costs as a result of complying with the SNUR requirements, and costs associated with submitting a SNUN, including submitting toxicological testing prior to manufacture or import of the PMN substances for a significant new use.

EPA Response: The economic assessment developed by EPA for this rule estimates and discusses the potential costs identified by the commenter. The commenter did not supply any additional information disputing EPA's specific cost estimates or conclusions. Therefore, EPA will not change any of its cost estimates or conclusions. Contrary to the commenter's assertions, the SNURs do not require testing, and submission of a SNUN does not require submission of toxicological testing. The preamble to the proposed SNURs did recommend testing that could address potential risks EPA has identified for the PMN substances, and states that SNUN submitters can submit any other data to address potential risks. Anyone submitting a SNUN is strongly encouraged to submit information addressing potential risks, but specific testing is not required.

Comment 8: EPA's economic assumptions pursuant to the Regulatory Flexibility Act do not reflect the current market. Nearly identical structural analogs of the PMN substances already on the TSCA Inventory are produced by companies in the United States and abroad. The PMN substances are produced abroad and imported in finished articles.

EPA Response: The commenter did not supply any information on present or future significant new uses by small or large entities of the substances subject to the SNURs. Therefore, the basis for EPA's finding under the Regulatory Flexibility Act, that the promulgation of the SNURs will not have a significant adverse economic impact on a substantial number of small entities, will remain unchanged in the final rule.

Comment 9: The rule would prevent U.S. manufacturers from manufacturing and using the PMN substances in finished products while the rule would not prevent the use of the PMN substances outside the United States. Foreign manufacturers of finished products containing the PMN

substances will be able to use the PMN substances and import them as part of articles exempt from TSCA reporting.

EPA Response: TSCA primarily addresses risks within the United States. The consent order and the SNURs do not prevent United States manufacturers from manufacturing and using the PMN substances in finished products. In fact, the consent order negotiated with the PMN submitter allows manufacture, subject to certain restrictions. Those restrictions are reflected in the SNURs. The SNURs exempt all manufacturers and processors from significant new use reporting once the PMN substances have been incorporated into a polymer, glass, dispersion, cementitious matrix, or a similar incorporation. This includes articles imported into the United States. For these uses, no significant exposures are expected. The consent order and the SNURs would only be applicable in the United States to manufacturers or processors of the PMN substances in particulate form. EPA issued the consent order and is issuing the SNURs to address potential worker exposures associated with manufacture and processing of the PMN substances that could result in a risk of lung effects.

Comment 10: There are economic and environmental benefits identified in the PMN submissions for these chemical substances. Specifically, the PMN substances are intended to replace pigments containing heavy metals such as lead and cadmium, which are associated with risks to human health and the environment.

EPA Response: While EPA agrees that it would be beneficial to replace pigments that contain lead and cadmium, EPA found that the potential unreasonable risks associated with the PMN substances warranted issuing a consent order and SNUR.

VI. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became effective, and then argue that the use was ongoing before the effective date of the final rule.

Any person who began commercial manufacture, import, or processing of the specific chemical substances for any of the significant new uses designated in the proposed rule after the date of publication of the proposed rule must stop that activity before the effective date of this final rule. Persons who ceased those activities will have to meet all applicable SNUR notice requirements and wait until the notice review period, including any extensions, before engaging in any activities designated as significant new uses.

EPA has promulgated provisions to allow persons to comply with these SNURs before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of this final SNUR for those activities.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection and test reporting.

EPA has determined that a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) in rats would help characterize the human health effects of the PMN substances. To access this guideline, please to go *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' This test may not be the only means of addressing the potential risks of the chemical substances. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances during the development of the direct final rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2010–1075.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This final rule establishes SNURs for two new chemical substances that were the subject of PMNs and a TSCA section 5(e) consent order. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB

and 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**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this final rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

On February 18, 2012, EPA certified pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUN submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the economic analysis discussed in Unit IX. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300. Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this final rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

E. Executive Order 13132

This action will not have 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This final rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination With Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children From Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 16, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. The table in § 9.1 is amended by adding the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.10230	2070–0012
721.10231	2070–0012
* * * * *	

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10230 to subpart E to read as follows:

§ 721.10230 Rutile, tin zinc, calcium doped.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as rutile, tin zinc, calcium-doped (PMN P–06–36; CAS No. 389623–01–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance that have been incorporated into a polymer, glass, dispersion, cementitious matrix, or a similar incorporation.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of 10 meet the minimum requirements for § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose- fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting face-piece (either half-face or full-face) and HEPA filters; or

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting face-piece (either half-face or full-face).

(*1*) As an alternative to the respiratory requirements listed in paragraph (a)(2)(i), a manufacturer, importer, or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance. The NCEL is 2.4 mg/m^3 as an 8-hour time-weighted-average for this substance (PMN P–06–36; CAS No. 389623–01–2) and the substance referred to in 40 CFR 721.10231 (PMN P–06–37; CAS No. 389623–07–8) combined. Persons who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those contained in the corresponding section 5(e) consent order.

(*2*) [Reserved]

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(2)(ii), (g)(2)(iv) (use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 2.4 mg/m^3), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (manufacture of the substance with a particle size less than 100 nanometers, where d10 particle size presents the particle size, as determined by laser light scattering, at which 10 percent by weight of the substance measured is smaller).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10231 to subpart E to read as follows:

§ 721.10231 Rutile, tin zinc, sodium-doped.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as rutile, tin zinc, sodium-doped (PMN P–06–37; CAS No. 389623–07–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance that have been incorporated into a polymer, glass, dispersion, cementitious matrix, or a similar incorporation.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of 10 meet the minimum requirements for § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a

tight-fitting face-piece (either half-face or full-face) and HEPA filters; or

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting face-piece (either half-face or full-face).

(*1*) As an alternative to the respiratory requirements listed in paragraph (a)(2)(i), a manufacturer, importer, or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance. The NCEL is 2.4 mg/m^3 as an 8-hour time-weighted-average for this substance (PMN P–06–37; CAS No. 389623–07–8) and the substance referred to in 40 CFR 721.10230 (PMN P–06–36; CAS No. 389623–01–2) combined. Persons who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those contained in the corresponding section 5(e) consent order.

(*2*) [Reserved]

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(2)(ii), (g)(2)(iv) (use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 2.4 mg/m^3), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (manufacture of the substance with a particle size less than 100 nanometers, where d10 particle size presents the particle size, as determined by laser light scattering, at which 10 percent by weight of the substance measured is smaller).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2012–17895 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0353; FRL–9699–5]

Approval and Promulgation of Implementation Plans; Tennessee; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve in part, and conditionally approve in part, the State Implementation Plan (SIP) submission, submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), to demonstrate that the State meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. TDEC certified that the Tennessee SIP contains provisions that ensure the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Tennessee (hereafter referred to as ''infrastructure submission''). With the exception of sub-element 110(a)(2)(E)(ii), which pertains to the requirements of section 128(a)(1) of the CAA, Tennessee's infrastructure submission, provided to EPA on December 14, 2007, addresses all the required infrastructure elements for the 1997 8-hour ozone NAAQS.

DATES: *Effective Date:* This rule will be effective August 22, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2011–0353. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 through *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: Nacosta C. Ward, 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. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
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I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS.

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing

requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As already mentioned, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this final rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards.''

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour average concentrations, thus states were required to provide submissions to address sections 110(a)(1) and (2) of the CAA for this new NAAQS. Tennessee provided its infrastructure submission for the 1997 8-hour ozone NAAQS on December 14, 2007. On March 27, 2008, Tennessee was among other states that received a finding of failure to submit because its infrastructure submission was deemed incomplete for elements 110(a)(2)(C) and (J) for the 1997 8-hour ozone NAAQS by March 1, 2008. *See* 73 FR 16205. Infrastructure elements 110(a)(2)(C) and (J) relate to a SIP addressing changes to its part C prevention of significant deterioration (PSD) permit program as required by the 1997 8-Hour Ozone NAAQS Implementation Rule New Source Review (NSR) Update—Phase 2 Rule (hereafter referred to as the Ozone Implementation NSR Update) recognizing nitrogen oxides as a precursor for ozone in 40 CFR 51.166 and 40 CFR 52.21, among other requirements. *See* 70 FR 71612, (November 29, 2005). Tennessee has since met the completeness requirements for 110(a)(2)(C) and (J) and these infrastructure elements were federally approved on March 14, 2012. *See* 77 FR 14976.

On April 16, 2012, EPA proposed to approve Tennessee's December 14, 2007, infrastructure submission and proposed to approve in part, and conditionally approve in part, infrastructure sub-element 110(a)(2)(E)(ii) for the 1997 8-hour ozone NAAQS. *See* 77 FR 22533. CAA section 110(a)(2)(E)(ii), pertaining to section 128 State Board requirements, requires at subsection (a)(1) that each SIP shall contain requirements that any board or body which approves permits or enforcement orders be subject to the described public interest and income restrictions. It further requires at subsection (a)(2) that any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements. In this action, EPA is taking two actions regarding the section 110(a)(2)(E)(ii) requirements. First, EPA is finalizing its conditional approval for part of Tennessee's infrastructure SIP for element 110(a)(2)(E)(ii) with respect to the applicable section 128(a)(1) requirements. Second, EPA is approving the remaining part Tennessee's infrastructure SIP for element 110(a)(2)(E)(ii) with respect the applicable section 128(a)(2) requirements.

On March 28, 2012, Tennessee submitted a letter of commitment to EPA to adopt specific enforceable measures related to 128(a)(1) to address current deficiencies in the Tennessee SIP as outlined in EPA's April 16, 2012, proposed rulemaking. This letter of commitment meets the requirements of section 110(k)(4) of the CAA. Failure to adopt these provisions into the Tennessee SIP within one year (by July 23, 2013) will result in today's conditional approval becoming a disapproval. Tennessee's March 28, 2012, letter can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2011–0353. A summary of the background for today's final action is provided below. See EPA's April 16, 2012, proposed rulemaking at 77 FR 22533 for more detail.

II. This Action

EPA is taking final action to approve Tennessee's infrastructure submission as demonstrating that the State meets the applicable requirements of sections 110(a)(1) and (2) of the CAA for the 1997 8-hour ozone NAAQS, with the exception of one portion of CAA section 110(a)(2)(E)(ii) specifically pertaining to section 128(a)(1) requirements. EPA is taking final action to conditionally approve, sub-element 110(a)(2)(E)(ii) as it pertains to section 128(a)(1). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an ''infrastructure'' SIP. Tennessee, through TDEC, certified that the Tennessee SIP contains provisions that ensure the 1997 8-hour ozone NAAQS is implemented, enforced, and maintained in Tennessee. EPA received no adverse comments on its April 16,

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's final rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or (C). In a March 14, 2012, final rulemaking, EPA addressed the section 110(a)(2)(C) requirements for Tennessee. *See* 77 FR 14976.

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's final rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by Tennessee consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the D.C. Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina v. EPA,* 531 F.3d 896 (D.C. Cir. 2008). Prior to this remand, EPA took final action to approve Tennessee's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 46388 (August 20, 2007). In so doing, Tennessee's CAIR SIP revision addressed the interstate transport provisions in section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has promulgated a new rule to address interstate transport. *See* 76 FR 48208 (August 8, 2011) (''the Transport Rule''). That rule was recently stayed by the D.C. Circuit Court of Appeals. EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' but as mentioned above is not relevant to today's proposed rulemaking.

2012, proposed approval of Tennessee's December 14, 2007, infrastructure submission and proposed conditional approval of one portion of section 110(a)(2)(E)(ii).

Tennessee's infrastructure submission, provided to EPA on December 14, 2007, addresses all the required infrastructure elements for the 1997 8-hour ozone NAAQS, with the exception of CAA section 110(a)(2)(E)(ii), pertaining to section 128(a)(1) requirements. EPA has determined that Tennessee's December 14, 2007, submission is consistent with section 110 of the CAA, with the exception of the CAA section 128(a)(1) requirements of section 110(a)(2)(E)(ii).

On March 28, 2012, Tennessee submitted a letter of commitment to EPA to adopt specific enforceable measures related to CAA section 128(a)(1) to address the current deficiencies in the Tennessee SIP related to CAA section 110(a)(2)(E)(ii) as outlined in EPA's April 16, 2012, proposed rulemaking. As a result of Tennessee's March 28, 2012, submission, EPA has determined that conditional approval, specifically pertaining to the requirements of 128(a)(1), is appropriate because the State has explicitly committed to address current deficiencies in the Tennessee SIP related to sub-element 110(a)(2)(E)(ii) consistent with the requirements of CAA section 110(k)(4).

EPA is conditionally approving the March 28, 2012, submittal with respect to the CAA requirement of sub-element 110(a)(2)(E)(ii) and section 128(a)(1). Tennessee must submit to EPA by July 23, 2013, a SIP revision adopting specific enforceable measures related to CAA section 128(a)(1) as described in the State's letter of commitment described above. If the State fails to actually submit these revisions by July 23, 2013, today's conditional approval will automatically become a disapproval on that date and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the Federal Implementation Plan requirement under section 110(c). However, if the State meets its commitment within the applicable timeframe, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal. If EPA disapproves the new submittal, today's conditionally approved submittal will also be disapproved at that time. If EPA approves the new submittal, Tennessee's infrastructure SIP will be fully approved in its entirety and replace the conditionally approved element in the SIP.

III. Final Action

EPA is taking final action to approve Tennessee's December 14, 2007, submission for the 1997 8-hour ozone NAAQS and conditionally approve in part, Tennessee's March 28, 2012, submission because these submissions are consistent with section 110 of the CAA. With the exception of section 110(a)(2)(E)(ii) pertaining to the section 128(a)(1) requirements, TDEC has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Tennessee.

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 21, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: June 25, 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 RR—Tennessee

■ 2. Section 52.2219 is added to read as follows:

§ 52.2219 Conditional approval.

Conditional Approval—Submittal from the State of Tennessee, through the Department of Environment and Conservation (TDEC), dated December 14, 2007, to address the Clean Air Act (CAA) infrastructure requirements for the 1997 8-hour ozone National Ambient Air Quality Standards. On March 28, 2012, TDEC supplemented their December 14, 2007, submission with a commitment to address the deficient requirements of CAA section 110(a)(2)(E)(ii) of the CAA, which requires state compliance with section 128(a)(1) of the CAA. EPA is conditionally approving Tennessee's submittal with respect to CAA section 110(a)(2)(E)(ii) specifically related to the adoption of enforceable measures contained in CAA section 128(a)(1).

■ 3. Section 52.2220(e) is amended by adding a new entry ''110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards'' at the end of the table to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
* * *	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards.	Tennessee	12/14/2007	7/23/2012 [Insert citation of publication].	

[FR Doc. 2012–17644 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0042; FRL–9702–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Offset Lithographic Printing and Letterpress Printing Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. The revision pertains to amendments to the Code of Maryland (COMAR) 26.11.19.11, Lithographic and Letterpress Printing. EPA is approving the revision to meet the requirements to adopt Reasonably Available Control Technology (RACT) for sources covered by EPA's Control Techniques Guidelines (CTG) for offset lithographic printing and letterpress printing in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on August 22, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2012–0042. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 14, 2012 (77 FR 28336), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of amendments to COMAR 26.11.19.11, Lithographic and Letterpress Printing. The amendments adopt EPA's CTG for lithographic and letterpress printing. The formal SIP revision (#11–09) was submitted by the Maryland Department of the Environment (MDE) on December 15, 2011. Additional background information behind this SIP revision is discussed in detail in the NPR.

II. Summary of SIP Revision

This SIP revision consists of amendments to COMAR 26.11.19.11 to adopt a new CTG for offset lithographic printers and letterpress printers, entitled *Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing* (*see* EPA 453/R–06–002). A detailed summary of EPA's review of and rationale for approving this SIP revision may be found in the TSD for this action which is available in the docket. No public comments were received on the NPR.

III. Final Action

EPA is approving the Maryland SIP revision which adopts the CTG standards for offset lithographic printing and letterpress printing into the Code of Maryland.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely 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 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 rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

C. Petitions for Judicial Review

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 September 21, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the amendments of the Code of Maryland to adopt EPA's CTG for lithographic printing and letterpress printing, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

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

Dated: July 10, 2012.

W. C. Early,

Acting Regional Administrator, Region III.

Therefore, 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.*

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.19.11 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
*	*	*	*	*
26.11.19	**Volatile Organic Compounds from Specific Processes**			
*	*	*	*	*
26.11.19.11	Lithographic and Letterpress Printing	10/31/11	7/23/12 [Insert page number where the document begins].	Sections .11A through .11E are revised; sections .11F through .11H are added.
*	*	*	*	*

* * * * *

[FR Doc. 2012–17762 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL 9704–1]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: The EPA (also, ''the Agency'' or ''we'') is amending an existing exclusion to reflect changes in ownership and name for the ConocoPhillips Billings, Montana Refinery. Today's amendment documents these changes.

DATES: This amendment is effective on July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Christina Cosentini, by mail at EPA Region 8, Resource Conservation and Recovery Program, 1595 Wynkoop Street, Mail Code 8P–R, Denver, Colorado 80202, by phone at (303) 312–6231, or by email at *cosentini.christina@epa.gov.*

SUPPLEMENTARY INFORMATION: In this document the EPA is amending appendix IX to part 261 to reflect a change in the ownership and name of a particular facility. Today's notice documents the transfer of ownership and name change by updating appendix IX to incorporate the change in owner's name for the ConocoPhillips Billings, Montana Refinery. On May 3, 2012, the EPA was notified that ownership of the Billings, Montana Refinery had been transferred to Phillips 66 Company. Phillips 66 Company certified that the management and operation of the Billings Refinery has not changed due to the restructuring. This notice documents the change by updating appendix IX to incorporate a change in name.

These changes to appendix IX of part 261 are effective July 23, 2012. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of the Resource Conservation and Recovery Act (RCRA) to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. As described above, the change in ownership will not affect the refineries operations. Therefore, a six-month delay in the effective date is not necessary in this case. This provides the basis for making this amendment effective immediately upon publication under the Administrative Procedures Act pursuant to 5 United States Code (U.S.C.) 5531(d).

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Authority: RCRA 3001(f), 42 U.S.C. 6921(f).

Dated: June 28, 2012.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. In Table 1 of Appendix IX to part 261 is amended by removing the '' ConocoPhillips Billings Refinery '' entry and adding a new entry ''Phillips 66 Company, Billings Refinery'' in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Phillips 66 Company, Billings Refinery (formerly ConocoPhillips Billings Refinery).	Billings, Montana	Residual solids from centrifuge and/or filter press processing of storm water tank sludge (F037) generated at a maximum annual rate of 200 cubic yards per year must be disposed in a lined Subtitle D landfill, licensed, permitted or otherwise authorized by a state to accept the delisted processed storm water tank sludge. The exclusion became effective March 1, 2012. For the exclusion to be valid, Phillips 66 must implement a verification testing program that meets the following Paragraphs: 1. *Delisting levels:* The constituent concentrations in a leachate extract of the waste measured in any sample must not exceed the following concentrations (mg/L TCLP): Acenaphthene-37.9; Antimony-.97; Anthracene-50; Arsenic-.301; Barium-100; Benz(a)anthracene-.25; Benzene-.5; Benzo(a)pyrene-1.1; Benzo(b)fluoranthene-8.7; Benzo(k) fluoranthene-50; Bis(2-ethylhexyl)phthalate -50; 2-Butanone -50; Cadmium-1.0; Carbon disulfide-36; Chromium- 5.0; Chrysene-25.0; Cobalt-.763; Cyanide(total)-41.2; Dibenz(a,h)anthrancene-1.16; Di-n-octyl phthalate-50; 1,4-Dioxane -36.5; Ethylbenzene-12; Fluoranthene -8.78; Fluorene-17.5; Indeno(1,2,3-cd)pyrene-27.3; Lead-5.0; Mercury-.2; m&p -Cresol-10.3; Naphthalene-1.17; Nickel-48.2; o-Cresol-50; Phenanthrene-50; Phenol-50; Pyrene-15.9; Selenium -1.0; Silver-5.0; Tetrachloroethene-0.7; Toluene-26;Trichloroethene -.403; Vanadium-12.3; Xylenes (total)-22; Zinc-500.

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		2. *Verification Testing:* To verify that the waste does not exceed the specified delisting levels, Phillips 66 must collect and analyze two composite samples of the residual solids from the processed sludge to account for potential variability in each tank. Composite samples must be collected each time cleanout occurs and residuals are generated. Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. If oil and grease comprise less than 1 percent of the waste, SW–846 Method 1311 must be used for generation of the leachate extract used in the testing for constituents of concern listed above. SW–846 Method 1330A must be used for generation of the leaching extract if oil and grease comprise 1 percent or more of the waste. SW–846 Method 9071B must be used for determination of oil and grease. SW–846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11. As applicable, the SW–846 methods might include Methods 1311, 3010, 3510, 6010, 6020, 7470, 7471, 8260, 8270, 9014, 9034, 9213, and 9215. If leachate concentrations measured in samples do not exceed the levels set forth in paragraph 1, Phillips 66 can dispose of the processed sludge in a lined Subtitle D landfill which is permitted, licensed, or registered by the state of Montana or other state which is subject to Federal RCRA delisting. If constituent levels in any sample and any retest sample for any constituent exceed the delisting levels set in paragraph (1) Phillips 66 must do the following: (A) Notify the EPA in accordance with paragraph (5) and; (B) Manage and dispose of the process residual solids as F037 hazardous waste generated under Subtitle C of RCRA. 3. *Changes in Operating Conditions:* Phillips 66 must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process significantly change. Phillips 66 must handle wastes generated after the process change as hazardous until it has: demonstrated that the wastes continue to meet the delisting concentrations in paragraph (1); demonstrated that no new hazardous constituents listed in appendix VIII of part 261 have been introduced; and it has received written approval from the EPA. 4. *Data Submittal:* Whenever tank cleanout is conducted Phillips 66 must verify that the residual solids from the processed storm water tank sludge meet the delisting levels in 40 CFR 261 Appendix IX Table 1, as amended by this notice. Phillips 66 must submit the verification data to U.S. EPA Region 8, 1595 Wynkoop Street, RCRA Delisting Program, Mail code 8P–HW, Denver, CO 80202. Phillips 66 must compile, summarize and maintain onsite records of tank cleanout and process operating conditions and analytical data for a period of five years. 5. *Reopener Language:* (A) If, anytime after final approval of this exclusion, Phillips 66 possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the EPA in granting the petition, then the facility must report the data, in writing to the EPA at the address above, within 10 days of first possessing or being made aware of that data. (B) If Phillips 66 fails to submit the information described in paragraph (A) or if any other information is received from any source, the EPA will make a preliminary determination as to whether the reported information requires EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (C) If the EPA determines that the reported information requires the EPA action, the EPA will notify the facility in writing of the actions the agency believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed the EPA action is not necessary. The facility shall have 30 days from the date of the notice to present such information. (D) If after 30 days Phillips 66 presents no further information or after a review of any submitted information, the EPA will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the EPAs determination shall become effective immediately, unless the EPA provides otherwise. (E) Notification Requirements: Phillips 66 must do the following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (1) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities.

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(2) Update the onetime written notification, if it ships the delisted waste to a different disposal facility. (3) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
*	*	* * * * * *

[FR Doc. 2012–17905 Filed 7–20–12; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8239]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register.**

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Braintrim, Township of, Wyoming County ..	421008	November 14, 1973, Emerg; May 15, 1980, Reg; August 2, 2012, Susp.	Aug. 2, 2012	Aug. 2, 2012.
Clinton, Township of, Wyoming County	422197	April 13, 1978, Emerg; July 3, 1990, Reg; August 2, 2012, Susp.	.....do*	Do.
Conewago, Township of, Dauphin County	422406	February 10, 1981, Emerg; April 30, 1986, Reg; August 2, 2012, Susp.	.....do	Do.
Dauphin, Borough of, Dauphin County	420375	March 16, 1973, Emerg; April 15, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Derry, Township of, Dauphin County	420376	January 12, 1973, Emerg; September 30, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
East Hanover, Township of, Dauphin County.	420377	May 7, 1973, Emerg; January 16, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Eaton, Township of, Wyoming County	420909	July 27, 1973, Emerg; May 1, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Elizabethville, Borough of, Dauphin County	420378	October 17, 1974, Emerg; June 25, 1976, Reg; August 2, 2012, Susp.	.....do	Do.
Exeter, Township of, Wyoming County	420911	January 19, 1973, Emerg; February 1, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Factoryville, Borough of, Wyoming County	420912	August 14, 1975, Emerg; January 17, 1990, Reg; August 2, 2012, Susp.	.....do	Do.
Falls, Township of, Wyoming County	422198	December 27, 1974, Emerg; July 3, 1990, Reg; August 2, 2012, Susp.	.....do	Do.
Forkston, Township of, Wyoming County ...	422199	October 15, 1975, Emerg; August 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Halifax, Borough of, Dauphin County	420379	January 17, 1974, Emerg; September 5, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Halifax, Township of, Dauphin County	421592	June 17, 1975, Emerg; November 3, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Harrisburg, City of, Dauphin County	420380	April 21, 1972, Emerg; May 2, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Highspire, Borough of, Dauphin County	420381	November 10, 1972, Emerg; April 15, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Hummelstown, Borough of, Dauphin County.	420382	March 30, 1973, Emerg; March 15, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Jackson, Township of, Dauphin County	421593	February 5, 1981, Emerg; October 15, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
Jefferson, Township of, Dauphin County ...	421594	February 11, 1976, Emerg; October 15, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Laceyville, Borough of, Wyoming County ...	420913	April 2, 1974, Emerg; May 15, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Lemon, Township of, Wyoming County	422200	July 2, 1979, Emerg; July 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Londonderry, Township of, Dauphin County.	420383	March 30, 1973, Emerg; March 18, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Lower Swatara, Township of, Dauphin County.	420385	November 3, 1972, Emerg; April 15, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Lykens, Borough of, Dauphin County	420386	March 9, 1973, Emerg; September 3, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Lykens, Township of, Dauphin County	421595	January 20, 1976, Emerg; October 15, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
Mehoopany, Township of, Wyoming County.	422201	August 21, 1975, Emerg; July 3, 1990, Reg; August 2, 2012, Susp.	.....do	Do.
Meshoppen, Borough of, Wyoming County	420914	July 25, 1973, Emerg; September 16, 1981, Reg; August 2, 2012, Susp.	.....do	Do.
Meshoppen, Township of, Wyoming County.	421009	January 16, 1974, Emerg; February 15, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Middle Paxton, Township of, Dauphin County.	420387	March 2, 1973, Emerg; August 15, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Middletown, Borough of, Dauphin County ..	420388	October 13, 1972, Emerg; December 28, 1976, Reg; August 2, 2012, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Mifflin, Township of, Dauphin County	421596	May 9, 1975, Emerg; June 25, 1976, Reg; August 2, 2012, Susp.	.....do	Do.
Millersburg, Borough of, Dauphin County ..	420389	May 9, 1973, Emerg; August 15, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Monroe, Township of, Wyoming County	421186	November 5, 1975, Emerg; July 3, 1990, Reg; August 2, 2012, Susp.	.....do	Do.
Nicholson, Borough of, Wyoming County ...	420915	March 6, 1975, Emerg; March 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Nicholson, Township of, Wyoming County	422202	December 31, 1975, Emerg; July 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
North Branch, Township of, Wyoming County.	422203	September 7, 1979, Emerg; August 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Northmoreland, Township of, Wyoming County.	422204	August 27, 1979, Emerg; July 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Noxen, Township of, Wyoming County	422205	September 17, 1975, Emerg; April 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Overfield, Township of, Wyoming County ..	422568	February 13, 1980, Emerg; June 1, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Paxtang, Borough of, Dauphin County	420390	February 2, 1973, Emerg; March 18, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Reed, Township of, Dauphin County	420393	April 4, 1973, Emerg; November 1, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Royalton, Borough of, Dauphin County	420394	March 16, 1973, Emerg; April 15, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Rush, Township of, Dauphin County	421597	March 9, 1976, Emerg; August 19, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
South Hanover, Township of, Dauphin County.	420395	March 30, 1973, Emerg; May 2, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Susquehanna, Township of, Dauphin County.	420397	October 29, 1971, Emerg; April 15, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Swatara, Township of, Dauphin County	420398	April 16, 1973, Emerg; February 3, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Tunkhannock, Borough of, Wyoming County.	420917	April 18, 1973, Emerg; December 18, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Tunkhannock, Township of, Wyoming County.	422206	June 9, 1975, Emerg; July 15, 1988, Reg; August 2, 2012, Susp.	.....do	Do.
Upper Paxton, Township of, Dauphin County.	420399	April 5, 1973, Emerg; September 5, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Washington, Township of, Dauphin County	421598	January 20, 1976, Emerg; December 17, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Washington, Township of, Wyoming County.	422207	August 27, 1979, Emerg; July 3, 1990, Reg; August 2, 2012, Susp.	.....do	Do.
West Hanover, Township of, Dauphin County.	421600	September 20, 1974, Emerg; March 18, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
Wiconisco, Township of, Dauphin County ..	421030	September 26, 1973, Emerg; April 15, 1981, Reg; August 2, 2012, Susp.	.....do	Do.
Williams, Township of, Dauphin County	421601	September 27, 1976, Emerg; October 15, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
Windham, Township of, Wyoming County	422208	December 30, 1975, Emerg; September 4, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Virginia:				
Chilhowie, Town of, Smyth County	510185	January 15, 1974, Emerg; June 15, 1978, Reg; August 2, 2012, Susp.	.....do	Do.
Colonial Heights, City of, Independent City	510039	June 18, 1975, Emerg; September 2, 1981, Reg; August 2, 2012, Susp.	.....do	Do.
Marion, Town of, Smyth County	510223	October 24, 1974, Emerg; November 1, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Saltville, Town of, Smyth County	510191	January 15, 1974, Emerg; March 1, 1978, Reg; August 2, 2012, Susp.	.....do	Do.
Smyth County, Unincorporated Areas	510184	December 26, 1973, Emerg; May 15, 1980, Reg; August 2, 2012, Susp.	.....do	Do.
West Virginia:				
Elizabeth, Town of, Wirt County	540212	June 9, 1975, Emerg; January 17, 1991, Reg; August 2, 2012, Susp.	.....do	Do.
Wirt County, Unincorporated Areas	540211	January 19, 1976, Emerg; April 1, 1988, Reg; August 2, 2012, Susp.	.....do	Do.
Region V				
Illinois:				
Carbon Hill, Village of, Grundy County	170257	August 21, 1975, Emerg; September 4, 1985, Reg; August 2, 2012, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Channahon, Village of, Grundy County	170698	September 12, 1975, Emerg; February 15, 1983, Reg; August 2, 2012, Susp.	.....do	Do.
Coal City, Village of, Grundy County	170258	April 23, 1975, Emerg; May 25, 1978, Reg; August 2, 2012, Susp.	.....do	Do.
Diamond, Village of, Grundy County	170259	March 7, 1975, Emerg; May 25, 1978, Reg; August 2, 2012, Susp.	.....do	Do.
Dwight, Village of, Grundy County	170423	August 9, 1974, Emerg; November 1, 1990, Reg; August 2, 2012, Susp.	.....do	Do.
East Brooklyn, Village of, Grundy County	170873	June 24, 1981, Emerg; July 9, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Gardner, Village of, Grundy County	170261	April 8, 1985, Emerg; April 8, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
Grundy County, Unincorporated Areas	170256	June 11, 1974, Emerg; July 18, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
Mazon, Village of, Grundy County	170262	August 12, 1975, Emerg; September 27, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
Minooka, Village of, Grundy County	171019	N/A, Emerg; March 12, 1992, Reg; August 2, 2012, Susp.	.....do	Do.
Morris, City of, Grundy County	170263	July 25, 1974, Emerg; December 18, 1984, Reg; August 2, 2012, Susp.	.....do	Do.
Seneca, Village of, Grundy County	170407	May 9, 1975, Emerg; February 1, 1985, Reg; August 2, 2012, Susp.	.....do	Do.
South Wilmington, Village of, Grundy County.	171013	March 4, 1988, Emerg; March 4, 1988, Reg; August 2, 2012, Susp.	.....do	Do.
Indiana:				
Boonville, City of, Warrick County	180273	June 25, 1982, Emerg; June 25, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Chandler, Town of, Warrick County	180274	April 2, 1976, Emerg; September 28, 1979, Reg; August 2, 2012, Susp.	.....do	Do.
Newburgh, Town of, Warrick County	180276	January 12, 1973, Emerg; May 17, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Tennyson, Town of, Warrick County	180350	N/A, Emerg; November 13, 2008, Reg; August 2, 2012, Susp.	.....do	Do.
Warrick County, Unincorporated Areas	180418	April 11, 1975, Emerg; May 17, 1982, Reg; August 2, 2012, Susp.	.....do	Do.
Region VI				
Texas:				
Mineral Wells, City of, Palo Pinto and Parker Counties.	480517	March 3, 1972, Emerg; December 1, 1977, Reg; August 2, 2012, Susp.	.....do	Do.
Mingus, City of, Palo Pinto County	480518	January 28, 1998, Emerg; September 1, 2004, Reg; August 2, 2012, Susp.	.....do	Do.
Palo Pinto County, Unincorporated Areas	480516	November 6, 1981, Emerg; December 19, 1984, Reg; August 2, 2012, Susp.	.....do	Do.
Strawn, City of, Palo Pinto County	480965	May 20, 1987, Emerg; November 1, 1989, Reg; August 2, 2012, Susp.	.....do	Do.
Region VII				
Iowa:				
Fertile, City of, Worth County	190301	March 19, 1976, Emerg; August 4, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Hanlontown, City of, Worth County	190833	August 3, 2011, Emerg; N/A, Reg; August 2, 2012, Susp.	.....do	Do.
Manly, City of, Worth County	190834	June 15, 2001, Emerg; May 1, 2011, Reg; August 2, 2012, Susp.	.....do	Do.
Worth County, Unincorporated Areas	190916	August 4, 2011, Emerg; N/A, Reg; August 2, 2012, Susp.	.....do	Do.
Missouri:				
Aurora, City of, Lawrence County	290199	December 3, 1974, Emerg; September 15, 1978, Reg; August 2, 2012, Susp.	.....do	Do.
Cobalt Village, Village of, Madison County	290601	February 12, 1985, Emerg; July 2, 1987, Reg; August 2, 2012, Susp.	.....do	Do.
Mount Vernon, City of, Lawrence County	290202	April 14, 1975, Emerg; February 4, 1981, Reg; August 2, 2012, Susp.	.....do	Do.
Pierce City, City of, Lawrence County	290203	May 6, 1975, Emerg; December 28, 1993, Reg; August 2, 2012, Susp.	.....do	Do.
Region VIII				
Utah:				
Salt Lake City, City of, Salt Lake County	490105	May 28, 1974, Emerg; August 1, 1983, Reg; August 2, 2012, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
South Salt Lake, City of, Salt Lake County	490219	May 23, 1975, Emerg; December 18, 1985, Reg; August 2, 2012, Susp.	.....do	Do.

*do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: July 11, 2012.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–17810 Filed 7–20–12; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 10–97; FCC 12–33]

Unlicensed Personal Communications Service Devices in the 1920–1930 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document modifies the rules governing the operation of Unlicensed Personal Communications Service (UPCS) devices in the 1920–1930 MHz band (UPCS band) to promote more efficient use of the UPCS band and to facilitate the introduction of a new generation of unlicensed devices capable of supporting broadband connectivity using Digital Enhanced Cordless Telecommunications (DECT) technology.

DATES: Effective August 22, 2012. The incorporation by reference listed in the rule is approved by the Director of the Federal Register as of August 22, 2012.

FOR FURTHER INFORMATION CONTACT: Patrick Forster, (202) 418–7061, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2290, *Patrick.Forster@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 10–97, adopted March 22, 2012, and released March 23, 2012, FCC 12–33. The full text of this document is available on the Commission's Internet site at *www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St. SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; email *FCC@BCPIWEB.COM.*

Summary of the Report and Order

1. The *Report and Order* modifies part 15 of the rules governing the operation of Unlicensed Personal Communications Service (UPCS) devices in the 1920–1930 MHz band (UPCS band) to promote more efficient use of the UPCS band and to facilitate the introduction of a new generation of unlicensed devices capable of supporting broadband connectivity using Digital Enhanced Cordless Telecommunications (DECT) technology. Specifically, the Commission eliminated the least-interfered channel monitoring threshold for UPCS devices and reduced the number of duplex system access channels that a UPCS device must define and monitor from 40 to 20 channels in order to use the least-interfered channel access method. These changes will provide UPCS devices, particularly those designed to transmit with wider bandwidths but that define fewer than 40 channels, access to more usable channels (*i.e.,* combined time and spectrum windows) than are permitted under the existing rules, and unleash innovative cordless broadband technologies in the UPCS band, while limiting the potential for causing interference to other devices. The Commission also modified the rules to remove outdated provisions and to make other minor updates.

Background

2. The 1920–1930 MHz band is allocated to Fixed and Mobile services on a primary basis and is designated for use by UPCS devices on an unlicensed basis. Currently, the primary use of the 1920–1930 MHz band is for unlicensed cordless telephones that operate under part 15 of the Commission's rules. The part 15 rules provide that the 1920–1930 MHz band may be used for both asynchronous (generally data) and isochronous (generally voice) UPCS devices, with maximum and minimum emission bandwidths of 2.5 megahertz and 50 kilohertz, respectively. UPCS devices operating in the 1920–1930 MHz band may not cause harmful interference to authorized radio services and must accept any interference received.

3. To facilitate the sharing of spectrum in the UPCS band, the current rules require use of a ''spectrum etiquette'' that specifies a process for monitoring the time and spectrum windows that a transmission is intended to occupy for signals above a defined threshold (a ''listen-before-transmit'' protocol). To protect UPCS devices already using particular time and spectrum windows from transmissions from another device, each UPCS device must monitor the combined time and spectrum windows that it intends to use before beginning transmissions and to defer use or find other spectrum windows if the monitored signal level is above the threshold. Transmissions may commence with the same emission bandwidth in the monitored time and spectrum windows without further monitoring if no signal greater than 30 decibels (dB) above thermal noise is detected. Alternatively, if the UPCS system defines at least 40 duplex system access channels, a UPCS device may access, if available, time and spectrum windows with the lowest signal level below a threshold of 50 dB above thermal noise (henceforth referred to as the ''least-interfered channel access method''). If the initially selected combined time and spectrum windows are unavailable, the UPCS device may either monitor and select different windows or seek to use the same windows after waiting a randomly chosen amount of time between 10 and 150 milliseconds.

4. On May 6, 2010, the Commission adopted a *Notice of Proposed Rulemaking* (*UPCS Band NPRM*) in this proceeding that proposed changes designed to allow UPCS devices to access additional usable channels. The Commission took this action in response to a petition for rulemaking filed by the DECT Forum, an industry association

that promotes digital cordless radio technology for short-distance voice and data applications. In the *UPCS Band NPRM,* the Commission proposed to increase the least-interfered channel monitoring threshold from 50 to 65 dB above thermal noise and sought comment on whether some alternative value or elimination of the threshold would be more appropriate. The Commission also proposed to reduce the number of channels that must be defined and monitored under the least-interfered channel access method from 40 to 20 channels. It additionally sought comment on removing §§ 15.303(b) and (e), 15.307, and 15.311 regarding coordination with UTAM, Inc., since the relocation of incumbent fixed services from the UPCS band is now complete. The Commission further sought comment on a number of proposed updates to the part 15 UPCS rules regarding measurement procedures and definitions. Eight parties filed comments in response to the *UPCS Band NPRM;* these parties all strongly supported the Commission's proposals. No parties filed reply comments.

Discussion

5. The Commission decided to eliminate the 50 dB above thermal noise monitoring threshold for UPCS devices. Without this threshold, after monitoring the required minimum number of channels, UPCS devices may use available combined time and spectrum windows with the lowest signal level, rather than using only those windows with the lowest signal level below 50 dB above thermal noise. Coupled with a reduction in the number of channels from 40 to 20 that must be defined and monitored, elimination of this threshold will permit greater utilization of the UPCS band. For example, manufacturers could optimize cordless telephones for higher-density applications, such as office environments. These changes are also expected to encourage manufacturers to introduce innovative products and services using Internet protocol connectivity to combine access to broadband and telephony applications in a new generation of cordless devices.

6. First, the Commission concluded that the 50 dB above thermal noise least-interfered channel monitoring threshold for UPCS devices operating in the 1920–1930 MHz band should be eliminated. Eliminating the least-interfered channel monitoring threshold will allow UPCS devices to use additional time and spectrum windows with higher signal levels, which will allow access to more usable time and spectrum windows than under the current rule, thereby increasing the flexibility for innovation, utilization, and efficiency of the UPCS band. Further, this change will not inhibit the ability of UPCS devices to access available time and spectrum windows. Moreover, eliminating, instead of just increasing the monitoring threshold, will provide manufacturers with the flexibility to produce UPCS systems that can operate with the maximum possible traffic capacity and thereby maximize the utilization of the UPCS band. The Commission agreed with commenters that a higher monitoring threshold would not result in an increase in interference due to the path-loss and propagation characteristics of existing UPCS deployments and because UPCS devices are designed to use minimal power at all times. Finally, the Commission noted that although the DECT standard, which is used in over 100 countries, including all European countries, defines an upper signal limit at which a channel is considered busy and should not be used, it has no upper power threshold on least-interfered channels, and it appears that devices are operating under rules similar to those that the Commission adopted in this proceeding without experiencing interference problems.

7. Without a predetermined maximum threshold, manufacturers will also have the flexibility to select an appropriate threshold in order to prevent harmful interference to other UPCS devices. The Commission expects that UPCS devices will continue to operate using the DECT standard, which includes a listen-before-transmit protocol, and that UPCS devices will continue to monitor the desired channels to avoid causing harmful interference to other UPCS devices. Thus, they will not interfere with each other once a device is transmitting on a channel. Because UPCS devices operate at relatively low power levels, two devices would need to be within less than 1 foot of each other to impact one another. Thus, the probability of interference occurring among UPCS devices operating without a monitoring threshold or between such devices and those operating under the existing monitoring threshold will remain low. Although eliminating the maximum monitoring threshold could, in some cases, result in an increased number of UPCS devices operating simultaneously in a given location, they would be operating with relatively low peak transmitter power and out-of-band emissions limits. Thus, relatively higher-power Advanced Wireless Service and Personal Communications Service devices (either fixed or mobile) receiving in the adjacent 1915–1920 MHz and 1930–1990 MHz bands, respectively, will not experience harmful interference in such cases.

8. Second, the Commission concluded that the minimum number of channels that must be defined and monitored under the least-interfered channel access method can be reduced from 40 to 20 channels without posing an additional risk of interference to adjacent band or in-band operations, nor inhibiting the ability of UPCS devices to access available channels. Reducing the required number of channels that must be defined and monitored to 20 channels will enable UPCS devices that define fewer than 40 channels (*i.e.,* use wider emission bandwidths) to use the least-interfered channel access method and access additional usable channels, and thereby encourage manufacturers to produce cordless products that can provide access to broadband technologies. This action will serve the public interest by promoting increased use of the UPCS band for advanced services and allowing state-of-the-art UPCS devices that can provide higher throughputs (*i.e.,* data rates) to operate under the least-interfered channel access method, thereby further improving the efficiency and utilization of the UPCS band, while maintaining equal access to the available spectrum on a shared basis for all users.

9. In addition, the Commission took several actions to update the rules in other ways. It modified the part 15 UPCS rules to reflect that UPCS devices no longer need to protect fixed microwave incumbents in the 1920–1930 MHz band and are no longer coordinated by UTAM, Inc. Because the rules to transition the 1920–1930 MHz band from incumbent fixed microwave operations to UPCS use sunset in 2005, there is no longer a need for § 15.307(a) and (c)–(h), which sets forth the expired coordination requirements. Furthermore, because UPCS devices are no longer coordinated by UTAM, Inc., the definitions in § 15.303(b) and (e) that were applicable when UPCS devices were either coordinatable or non-coordinatable and the UTAM Inc.-related labeling requirement in § 15.311 are no longer necessary. Thus, the Commission eliminated §§ 15.303(b) and (e), 15.307(a) and (c) through (h), and 15.311 of the rules.

10. The Commission maintained that each applicant for FCC equipment authorization of a UPCS-band device must be a participating member of UTAM, Inc. and retained the UTAM, Inc. membership requirement for UPCS-band device manufacturers in § 15.307(b). Under the relocation

funding plan approved by the Commission, UTAM, Inc., acting on behalf of future unlicensed PCS manufacturers in the 1910–1930 MHz band, paid to relocate or agreed to share the costs to relocate incumbent services in the band, and future band entrants would reimburse it for their share of those incurred costs. UTAM, Inc. informed the Commission that it has outstanding contractual liabilities from clearing the 1910–1930 MHz band of incumbent microwave stations. Although UTAM, Inc. expects that the cost-sharing reimbursement(s) that it will eventually receive from the Advanced Wireless Service (AWS) licensee(s) of the 1915–1920 MHz band will enable it to pay these outstanding liabilities, it must remain in existence until these liabilities are paid. UTAM, Inc. submitted that for it to remain in existence, the Commission cannot eliminate the membership requirement because membership fees are its sole source of operating revenue. UTAM, Inc. argued that if the membership requirement were eliminated, it would inequitably place the costs of maintaining UTAM, Inc. on existing members, thereby undermining the original purpose of § 15.307(b) to equitably distribute the costs of clearing the 1910–1930 MHz band across the manufacturers producing devices that operate in the band. The Commission determined that cost sharing was integral to clearing the UPCS band of incumbent services so new unlicensed devices could be introduced in the band. UTAM, Inc. made a persuasive case that it had incurred obligations, as a result of the UPCS band clearing, that have not been satisfied. The Commission concluded that, if it were to eliminate the membership requirement, there would be no mechanism to ensure that outstanding cost sharing obligations are satisfied. The *UPCS Band NPRM* proposed no alternative that would equitability distribute these obligations among all manufacturers of equipment in the band, including those who would introduce new products in the band in the future. For these reasons, the Commission decided to maintain the UTAM, Inc. membership requirement for UPCS-band device manufacturers contained in Section 15.307(b).

11. The Commission also corrected the part 15 UPCS rules to make them consistent with previous Commission decisions affecting these rules. Specifically, it removed the definition in § 15.303(i) that was applicable when asynchronous and isochronous operations were in separate sub-bands; amended § 15.319 to specifically state that both asynchronous and isochronous operations are permitted in the 1920–1930 MHz band, consistent with the decision in the *AWS Sixth R&O;* revised § 15.323 to correct a typographical error in the second sentence of paragraph (a) and corrected paragraphs (d) and (e) to reference ''bands'' instead of ''sub-bands.'' In addition, the Commission amended §§ 15.31(a)(2) and 15.38(b)(12) of the rules to reference the latest version of the ANSI C63.17–2006 standard by which UPCS devices must be measured for compliance with the requirements in part 15 Subpart D of the rules.

12. To help ensure that the UPCS device rules continue to reflect the most appropriate industry standards, the Commission delegated to the Chief, Office of Engineering and Technology (OET), the authority to approve for use new versions of the ANSI C63.17 standard for methods of measurement of the electromagnetic and operational compatibility of UPCS devices to the extent that the changes do not raise major compliance issues. At the same time, the Commission recognized the necessity to provide opportunity for notice and comment on any changes or modifications that could affect compliance with our regulations. Therefore, in cases where major changes have been made in this standard that could affect compliance, the Commission will initiate an appropriate rulemaking proceeding to consider adoption of updated versions of the ANSI C63.17 standard.

Final Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* (Unlicensed Personal Communications Service (*UPCS*) *Band NPRM*) in ET Docket No. 10–97.[2] The Commission sought written public comment on the proposals in the *UPCS Band NPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601—612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] *See* Amendment of Part 15 of the Commission's Rules Regarding Unlicensed Personal Communications Service Devices in the 1920–1930 MHz Band, ET Docket No. 10–97, RM–11485, *Notice of Proposed Rulemaking,* 25 FCC Rcd 5118, 5132–36 (2010) (*UPCS Band NPRM*).

[3] *See* 5 U.S.C. 604.

A. Need for, and Objectives of, the Report and Order

14. In this *Report and Order,* the Commission took steps to improve the operation of unlicensed Personal Communications Services (UPCS) devices operating in the 1920–1930 MHz band (known as the UPCS band), while limiting the potential for in-band and adjacent-band interference and maintaining equal access to the available spectrum on a shared basis for all users.

15. In this *Report and Order,* the objectives of the Commission were to improve the utilization of the UPCS band by allowing access to additional usable time and spectrum windows whose use is restricted under the current rules, to reduce infrastructure costs through allowing a greater density of UPCS devices to be used with fewer base stations, and to allow UPCS devices that use wider bandwidth channels, but define and monitor fewer than 40 channels, to use the UPCS least-interfered channel access method and access additional usable time and spectrum windows. Specifically, the Commission eliminated the 50 dB above thermal noise signal threshold that UPCS devices must monitor when using the least-interfered channel access method. Under this method, UPCS devices would survey the required minimum number of channels and use the combined time and spectrum windows with the lowest signal level, instead of using only the windows with the lowest signal level below 50 dB above thermal noise. The Commission also reduced from 40 to 20 channels the number of channels a UPCS device must define and monitor in order to use the least-interfered channel access method. In addition, this *Report and Order* updated the part 15 UPCS rules to reflect that UPCS devices no longer need to protect incumbent fixed microwave radio stations in the 1920–1930 MHz band and are no longer coordinated by UTAM, Inc., and to make them consistent with previous changes to the rules.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

16. No public comments were received in response to the IRFA in the UPCS Band NPRM.

C. Description and Estimate of the Number of Small Entities to Which the Rule Will Apply

17. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of

small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[6]

18. Nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.[7] A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[8] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[9] The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.''[10] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[11] The Commission estimates that, of this total, 84,377 entities were ''small governmental jurisdictions.''[12] Thus, the Commission estimates that most governmental jurisdictions are small.

19. The changes adopted in this Report and Order affect fixed service (FS) stations licensed under part 101 of our rules, UPCS stations, as well as wireless equipment manufacturers and frequency coordinators.

Fixed Microwave Services. Fixed microwave services include common carrier,[13] private operational-fixed,[14] and broadcast auxiliary radio services.[15] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees.[16] The Commission does not have data specifying the number of these licensees that have no more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are 22,015 or fewer common carrier fixed licensees and 61,670 or fewer private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies proposed herein. The Commission notes, however, that the common carrier microwave fixed licensee category includes some large entities.

Unlicensed Personal Communications Services. As its name indicates, UPCS is not a licensed service. UPCS consists of intentional radiators operating in the frequency band 1920–1930 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses. The *Report and Order* affects UPCS operations in the 1920–1930 MHz band; operations in those frequencies are given flexibility to deploy both voice and data-based services. There is no accurate source for the number of operators in the UPCS. Since 2007, the Census Bureau has placed wireless firms within the new, broad, economic census category Wireless Telecommunications Carriers (except Satellite).[17] Prior to that time, such firms were within the now-superseded category of ''Paging'' and ''Cellular and Other Wireless Telecommunications.''[18] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[19] Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[20] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus, under this category and the associated small business size standard, the majority of firms can be considered small.

Wireless Equipment Manufacturers. The industry comprises businesses primarily engaged in manufacturing radios and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.[21] In this category, the SBA has deemed a business manufacturing radio and television broadcasting equipment, wireless telecommunications equipment, or both, to be small if it has fewer than 750 employees.[22] For this category of

[4] *Id.* at 603(b)(3).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[6] Small Business Act, 15 U.S.C. 632 (1996).

[7] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *http://www.sba.gov/advo/stats/sbfaq.pdf* (accessed Dec. 2010).

[8] 5 U.S.C. 601(4).

[9] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[10] 5 U.S.C. 601(5).

[11] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[12] The Commission assumes that the villages, school districts, and special districts are small, and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[13] *See* 47 CFR part 101 *et seq.* for common carrier fixed microwave services (except Multipoint Distribution Service).

[14] Persons eligible under parts 80 and 90 of the Commission's Rules can use Private Operational-Fixed Microwave services. *See* 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[15] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. *See* 47 CFR part 74. This service is available to licensees of broadcast stations and to broadcast and cable network entities. Broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile television pickups, which relay signals from a remote location back to the studio.

[16] 13 CFR 121.201, NAICS code 517210.

[17] U.S. Census Bureau, 2007 NAICS Definitions, ''517210 Wireless Telecommunications Categories (Except Satellite)''; *http://www.census.gov/naics/2007/def/ND517210.HTM#N517210.*

[18] U.S. Census Bureau, 2002 NAICS Definitions, ''517211 Paging''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.;* U.S. Census Bureau, 2002 NAICS Definitions, ''517212 Cellular and Other Wireless Telecommunications''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[19] 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[20] U.S. Census Bureau, 2007 Economic Census, Sector 51, 2007 NAICS code 517210 (rel. Oct. 20, 2009), *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=700&-ds_name=EC0751SSSZ5&-_lang=en.*

[21] *http://www.census.gov/econ/industry/def/d334220.htm.*

[22] 13 CFR 121.201, NAICS Code 334220.

manufacturing, Census data for 2007 show that there were 919 firms that operated that year. Of those establishments, 531 had between 1 and 19 employees; 240 had between 20 and 99 employees; and 148 had more than 100 employees.[23] Since 771 establishments had less than 100 employees, and since only 148 had more than 100 employees, the vast majority of manufacturers in this category would be considered small under applicable standards.

Frequency Coordinators. Neither the Commission nor the SBA has developed a small business size standard specifically applicable to spectrum frequency coordinators. Since 2007, the Census Bureau has placed wireless firms within the new, broad, economic census category Wireless Telecommunications Carriers (except Satellite).[24] Prior to that time, such firms were within the now-superseded category of ''Paging'' and ''Cellular and Other Wireless Telecommunications.''[25] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[26] Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[27] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus, under this category and the associated small business size standard, the majority of firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

20. This *Report and Order* allows additional flexibility for UPCS devices operating in the 1920–1930 MHz band by eliminating the signal threshold that a UPCS device must monitor when using the least-interfered channel access method. In addition, the *Report and Order* reduces from 40 to 20 channels the number of channels that a UPCS device must define and monitor to use the least-interfered channel access method. This item does not contain any new reporting or recordkeeping requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

21. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[28]

22. The Commission's principal objective in this proceeding was to increase the efficiency and utilization of the UPCS band. By eliminating the signal threshold that a UPCS device must monitor under the least-interfered channel access method, we allow UPCS devices to access additional usable combined time and spectrum windows in the 1920–1930 MHz band that are restricted from use under the current rules. The Commission's decision to reduce from 40 to 20 channels the number of channels a UPCS device must define and monitor to use the least-interfered channel access method will enable UPCS devices that can provide advanced cordless technologies and higher data rates to use the least-interfered channel access method and access additional usable time and spectrum windows, if available. Together, these changes will increase the utilization and efficiency of the UPCS band and promote the introduction of innovative products and services using Internet protocol connectivity to combine access to broadband and telephony applications in a new generation of cordless devices. Elimination of the least-interfered channel monitoring threshold will also allow manufacturers to design their devices based on density of devices, rather than range, depending on the needs of users, thereby allowing more UPCS devices to operate within close proximity to one another, which will reduce the infrastructure costs for a UPCS system. Finally, the Commission's decision to eliminate rather than just increase the least-interfered channel monitoring threshold will provide manufacturers with the flexibility to produce UPCS systems that can operate with the maximum possible traffic capacity, which will maximize the utilization of the UPCS band.

23. *Report to Congress:* The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[29] In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA.

Paperwork Reduction Analysis

24. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

Congressional Review Act

25. The Commission will send a copy of this *Report and Order,* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

26. Pursuant to Sections 4(i), 302, 303(e), 303(f), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 302a, 303(e), 303(f), and 307, that this *Report and Order* in ET Docket No. 10–97 is hereby *adopted,* and Part 15 of the Commission's rules IS *amended* as set forth in Final Rules effective August 22, 2012.

27. The Chief, Office of Engineering and Technology (OET), is *delegated authority* to approve for use new versions of the ANSI C63.17 standard for methods of measurement of UPCS devices to the extent that the changes do not raise major compliance issues.

28. The Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order,* including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 15

Communications equipment, Incorporation by reference, Radio, Reporting and recordkeeping.

[23] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=300&-ds_name=EC0731I1&-_lang=en.*

[24] U.S. Census Bureau, 2007 NAICS Definitions, ''517210 Wireless Telecommunications Categories (Except Satellite)''; *http://www.census.gov/naics/2007/def/ND517210.HTM#N517210.*

[25] U.S. Census Bureau, 2002 NAICS Definitions, ''517211 Paging''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM;* U.S. Census Bureau, 2002 NAICS Definitions, ''517212 Cellular and Other Wireless Telecommunications''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[26] 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[27] U.S. Census Bureau, 2007 Economic Census, Sector 51, 2007 NAICS code 517210 (rel. Oct. 20, 2009), *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=700&-ds_name=EC0751SSSZ5&-_lang=en.*

[28] 5 U.S.C. 603(c).

[29] *See* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 to read as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 2. Section 15.31 is amended by revising paragraph (a)(2) to read as follows:

§ 15.31 Measurement standards.

(a) * * *

(2) Unlicensed Personal Communication Service (UPCS) devices are to be measured for compliance using ANSI C63.17–2006 (incorporated by reference, see § 15.38).

* * * * *

■ 3. Section 15.38 is revised to read as follows:

§ 15.38 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the **Federal Register**. The materials are available for purchase at the corresponding addresses as noted, and all are available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270, and 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.*

(b) The following documents are available from the following address: American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900,or at *http://webstore.ansi.org/ansidocstore/default.asp;*

(1) ANSI C63.4–2003: ''Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,'' 2003, IBR approved for § 15.31, except for sections 4.1, 5.2, 5.7, 9 and 14.

(2) ANSI C63.17–2006: ''Methods of Measurement of the Electromagnetic and Operational Compatibility of Unlicensed Personal Communications Services (UPCS) Devices'', approved June 28 2006, IBR approved for § 15.31.

(3) Third Edition of the International Special Committee on Radio Interference (CISPR), Pub. 22, ''Information Technology Equipment—Radio Disturbance Characteristics—Limits and Methods of Measurement,'' 1997, IBR approved for § 15.109.

(c) The following documents are available from the following address: Cable Television Laboratories, Inc., 858 Coal Creek Circle, Louisville, Colorado, 80027, *http://www.cablelabs.com/opencable/udcp,* (303) 661–9100;

(1) M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008, IBR approved for § 15.123(c).

(2) TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008, IBR approved for § 15.123(c).

(d) The following documents are available from the following address: Consumer Electronics Association, 1919 S. Eads St., Arlington; VA 22202, *http://www.ce.org/Standards/Standard-Listings.aspx,* (703) 907–7634.

(1) CEA–542–B: ''CEA Standard: Cable Television Channel Identification Plan,'' July 2003, IBR approved for § 15.118.

(2) CEA–766–A: ''U.S. and Canadian Region Rating Tables (RRT) and Content Advisory Descriptors for Transport of Content Advisory Information using ATSC A/65–A Program and System Information Protocol (PSIP),'' April 2001, IBR approved for § 15.120.

(3) Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 3, 2003, IBR approved for § 15.123(c).

(4) Uni-Dir-ATP–I02–040225: ''Uni-Directional Receiving Device, Acceptance Test Plan,'' February 25, 2004, IBR approved for § 15.123(c).

(e) The following documents are available from the following address: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112, (800) 854–7179, or at *http://global.ihs.com;*

(1) EIA–608: ''Recommended Practice for Line 21 Data Service,'' 1994, IBR approved for § 15.120.

(2) EIA–744: ''Transport of Content Advisory Information Using Extended Data Service (XDS),'' 1997, IBR approved for § 15.120.

(f) The following documents are available from the following addresses: Society of Cable Telecommunications Engineers (SCTE) c/o Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112 or the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036 or at *http://www.scte.org/standards/index.cfm;*

(1) SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard,'' 2003, IBR approved for § 15.123.

(2) SCTE 40 2003 (formerly DVS 313): ''Digital Cable Network Interface Standard,'' 2003, IBR approved for § 15.123.

(3) SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System,'' 2003, IBR approved for § 15.123.

(4) ANSI/SCTE 54 2003 (formerly DVS 241): ''Digital Video Service Multiplex and Transport System Standard for Cable Television,'' 2003, IBR approved for § 15.123.

(5) ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television,'' 2002, IBR approved for § 15.123.

§ 15.303 [Amended]

■ 4. Section 15.303 is amended by removing paragraphs (b), (e), (i), and removing the paragraph designations from the remaining paragraphs.

§ 15.307 [Amended]

■ 5. Section 15.307 is amended by removing paragraphs (a) and (c) through (h), and removing the paragraph designation from paragraph (b).

§ 15.311 [Removed]

■ 6. Section 15.311 is removed from subpart D.

■ 7. Section 15.319 is amended by revising paragraph (b) to read as follows:

§ 15.319 General technical requirements.

* * * * *

(b) All transmissions must use only digital modulation techniques. Both asynchronous and isochronous operations are permitted within the 1920–1930 MHz band.

* * * * *

■ 8. Section 15.323 is amended by revising the section heading, and paragraphs (a), (c)(5), (d), and (e) to read as follows:

§ 15.323 Specific requirements for devices operating in the 1920–1930 MHz band.

(a) Operation shall be contained within the 1920–1930 MHz band. The emission bandwidth shall be less than

2.5 MHz. The power level shall be as specified in § 15.319(c), but in no event shall the emission bandwidth be less than 50 kHz.

* * * * *

(c) * * *

(5) If access to spectrum is not available as determined by the above, and a minimum of 20 duplex system access channels are defined for the system, the time and spectrum windows with the lowest power level may be accessed. A device utilizing the provisions of this paragraph must have monitored all access channels defined for its system within the last 10 seconds and must verify, within the 20 milliseconds (40 milliseconds for devices designed to use a 20 milliseconds frame period) immediately preceding actual channel access that the detected power of the selected time and spectrum windows is no higher than the previously detected value. The power measurement resolution for this comparison must be accurate to within 6 dB. No device or group of co-operating devices located within 1 meter of each other shall during any frame period occupy more than 6 MHz of aggregate bandwidth, or alternatively, more than one third of the time and spectrum windows defined by the system.

* * * * *

(d) Emissions outside the band shall be attenuated below a reference power of 112 milliwatts as follows: 30 dB between the band and 1.25 MHz above or below the band; 50 dB between 1.25 and 2.5 MHz above or below the band; and 60 dB at 2.5 MHz or greater above or below the band. Emissions inside the band must comply with the following emission mask: In the bands between 1B and 2B measured from the center of the emission bandwidth the total power emitted by the device shall be at least 30 dB below the transmit power permitted for that device; in the bands between 2B and 3B measured from the center of the emission bandwidth the total power emitted by an intentional radiator shall be at least 50 dB below the transmit power permitted for that radiator; in the bands between 3B and the band edge the total power emitted by an intentional radiator in the measurement bandwidth shall be at least 60 dB below the transmit power permitted for that radiator. B'' is defined as the emission bandwidth of the device in hertz. Compliance with the emission limits is based on the use of measurement instrumentation employing peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(e) The frame period (a set of consecutive time slots in which the position of each time slot can be identified by reference to a synchronizing source) of an intentional radiator operating in this band shall be 20 milliseconds or 10 milliseconds/X where X is a positive whole number. Each device that implements time division for the purposes of maintaining a duplex connection on a given frequency carrier shall maintain a frame repetition rate with a frequency stability of at least 50 parts per million (ppm). Each device which further divides access in time in order to support multiple communication links on a given frequency carrier shall maintain a frame repetition rate with a frequency stability of at least 10 ppm. The jitter (time-related, abrupt, spurious variations in the duration of the frame interval) introduced at the two ends of such a communication link shall not exceed 25 microseconds for any two consecutive transmissions. Transmissions shall be continuous in every time and spectrum window during the frame period defined for the device.

* * * * *

[FR Doc. 2012–17793 Filed 7–20–12; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 77, No. 141
Monday, July 23, 2012

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

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2010–BT–STD–0027]

RIN 1904–AC28

Energy Conservation Standards for Commercial and Industrial Electric Motors: Public Meeting and Availability of the Preliminary Technical Support Document

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

ACTION: Notice of public meeting and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (DOE or Department) will hold a public meeting to discuss and receive comments on the following: the equipment classes DOE plans to analyze for the purpose of amending energy conservation standards for certain commercial and industrial electric motors under section 342(b) of the Energy Policy and Conservation Act (EPCA), as amended; the analytical framework, models, and tools that DOE plans to use to evaluate standards for this type of equipment; the results of preliminary analyses performed by DOE for this equipment; and the potential energy conservation standard levels derived from these analyses, which DOE may consider for this equipment. DOE also encourages interested parties to submit written comments on these subjects. To inform interested parties and facilitate the public meeting and comment process, DOE has prepared an agenda, a preliminary technical support document (TSD), and briefing materials, which are available at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/electric_motors.html*

DATES: The Department will hold a public meeting on Tuesday, August 21, 2012, from 9:00 a.m. to 4:00 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request, along with an electronic copy of the statement to be given at the public meeting, before 4:00 p.m., Tuesday, August 7, 2012. Written comments are welcome, especially following the public meeting, and should be submitted by September 7, 2012.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please contact Ms. Brenda Edwards, at (202) 586–2945, not later than August 7, 2012, to provide sufficient time to complete the required screening process.

Interested persons may submit comments, identified by the notice title (Notice of Public Meeting (NOPM) for Energy Conservation Standards for Commercial and Industrial Electric Motors under section 342(b) of the Energy Policy and Conservation Act (EPCA)), and provide the docket number (EERE–2010–BT–STD–0027) and/or the regulatory information number ((RIN) 1904–AC28). Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ElecMotors-2010–STD–0027@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC, 20585–0121. If possible, please submit all items on a compact disk (CD). It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC, 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods previously listed and by email to *Chad_S_Whiteman@omb.eop.gov.*

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

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

A link to the docket web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/electric_motors.html.* This web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov web page will contain simple instructions on how to access all documents, including public comments, in the docket.

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

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

In the Office of the General Counsel, contact Ms. Ami Grace-Tardy, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–5709. Email: *Ami.Grace-Tardy@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Statutory Authority

The Energy Policy and Conservation Act (EPCA), Public Law 94–163, 42 U.S.C. 6291–6317, as amended by the Energy Policy Act of 1992 (EPACT 1992), Public Law 102–486, establishes energy conservation standards and test procedures for certain commercial and industrial electric motors manufactured (alone or as a component of another piece of equipment) after October 24, 1997. In December 2007, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, amended EPCA to update the established energy conservation standards for electric motors and set forth additional energy conservation standards for a larger scope of motors not previously covered. (42 U.S.C. 6313(b)(2))

EPCA directs that the Secretary of Energy shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such equipment. Any such amendment would apply to electric motors manufactured after a date which is five years after: (i) The effective date of the previous amendment; or (ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective. (42 U.S.C. 6313(b)(4)(B))

Before amending any energy conservation standard for certain commercial and industrial electric motors, the U.S. Department of Energy (DOE or the Department) must first solicit comments on a proposed standard. In doing so, the standard must generally be designed to: (1) achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified; and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3)(B), 42 U.S.C. 6316(a)) To determine whether a proposed standard is economically justified, DOE must, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, weighing the following seven factors:

1. The economic impact of the standard on manufacturers and customers of equipment subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment which are likely to result from the imposition of the standard;

3. The total projected amount of energy savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered equipment likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy conservation; and

7. Other factors the Secretary of Energy considers relevant. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a))

Prior to proposing a standard, DOE typically seeks public input on the analytical framework, and software models and tools that will be used to evaluate standards; the results of preliminary analyses; and potential energy conservation standard levels derived from these analyses. Today's notice announces the availability of a preliminary technical support document (TSD), which details the preliminary analyses performed by DOE and summarizes the preliminary results. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

II. History of Standards Rulemaking for Commercial and Industrial Electric Motors

The following sections provide a brief summary of the rulemaking activities for commercial and industrial electric motors energy conservation standards.

A. Background

The amendments created by EISA 2007 comprise the most recent revisions to EPCA and the energy conservation standards for electric motors. Because these amendments are already effective and required for manufacturers to meet, DOE is, consistent with the statute, planning to publish a final rule to determine whether to amend the EISA 2007 energy conservation standards for electric motors. Any amended standards that DOE establishes would be published as part of that determination and would apply to electric motors manufactured on a date starting no earlier than five years after the December 19, 2010, effective date of the previous electric motors standard. Therefore, any amended standards that DOE establishes as a result of this rulemaking would have a compliance date no sooner than December 19, 2015. (42 U.S.C. 6313(b)(4)(B))

B. Current Rulemaking Process

To initiate the commercial and industrial electric motors rulemaking, the Department published on its Web site the ''Energy Conservation Standards Rulemaking Framework Document for Commercial and Industrial Electric Motors'' (75 FR 59657 (September 28, 2010)) The framework document describes the procedural and analytical approaches DOE anticipates using to evaluate energy conservation standards for electric motors. This document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/electric_motors.html.*

DOE held a public meeting on October 18, 2010, to discuss the analyses and issues identified in various sections of the framework document. At the meeting, DOE described the different analyses it would conduct, the methods proposed for conducting them, and the relationships among the various analyses. Representatives for manufacturers, trade associations, energy efficiency advocacy organizations, testing laboratories, and other interested parties attended the meeting. Comments received since publication of the framework document have helped DOE identify and resolve issues involved in the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments DOE received.

III. Summary of the Analyses

For each type of electric motor under consideration in this rulemaking, DOE conducted in-depth technical analyses in the following areas: (1) Engineering, (2) markups to determine equipment price, (3) energy use, (4) life-cycle cost (LCC) and payback period (PBP), and (5) national impact analysis (NIA). The preliminary TSD presents the methodology and results of each of these analyses. It is available at the web address given in the **SUMMARY** section of this notice (*http://www1.eere.energy.gov/buildings/appliance_standards/commercial/electric_motors.html*). The analyses are

described in more detail following this paragraph.

DOE also conducted several other analyses that either support the five major analyses or are preliminary analyses that will be expanded upon for a notice of proposed rulemaking (NOPR) if DOE determines that amended energy conservation standards are technologically feasible, economically justified, and would save a significant amount of energy, based on the information presented to the Department. The analyses include a market and technology assessment, screening analysis (that contributes to the engineering analysis), and shipments analysis (that contributes to the NIA). In addition to these analyses, DOE has completed preliminary work on a manufacturer impact analysis (MIA) that includes methodologies to be used for the LCC subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

A. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency of the equipment DOE is evaluating. This relationship serves as the basis for cost-benefit calculations for individual customers, manufacturers, and the nation. The engineering analysis identifies representative baseline equipment, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline equipment refers to a model or models having features and technologies typically found in equipment currently offered for sale. The baseline model in each equipment class represents the characteristics of the least efficient equipment in that class and, for equipment already subject to energy conservation standards, usually is a model that just meets the current standard. Chapter 5 of the preliminary TSD discusses the engineering analysis.

B. Markups To Determine Equipment Prices

DOE derives customer prices for equipment from data on manufacturer costs, manufacturer markups, retailer markups, distributor markups, and sales taxes. In deriving these markups, DOE has determined: (1) The distribution channels for equipment sales; (2) the markup associated with each party in the distribution chain; and (3) the existence and magnitude of differences between markups for baseline equipment (baseline markups) and markups for more efficient equipment (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the equipment markups at each step in the distribution chain. The overall incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the retailer or distributor sales price. Chapter 6 of the preliminary TSD addresses estimating markups.

C. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of commercial and industrial electric motors. DOE uses these values in the LCC and PBP analyses and in the NIA. DOE developed energy consumption estimates for all equipment analyzed in the engineering analysis. Chapter 7 of the preliminary TSD addresses the energy use analysis.

D. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual customers. The LCC is the total customer expense for equipment over the life of the equipment. The LCC analysis compares the LCCs of equipment designed to meet possible energy conservation standards with the LCCs of the equipment likely to be installed in the absence of standards. DOE determines LCCs by considering: (1) Total or incremental installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating expenses of the equipment (energy use and maintenance); (3) equipment lifetime; and (4) a discount rate that reflects the real consumer cost of capital and describes the LCC in present-value terms. The PBP is the number of years needed to recover the increase in purchase price (including installation cost) of more efficient equipment through savings in the operating cost of the equipment. It is the quotient of the change in total installed cost due to increased efficiency divided by the change in annual operating cost from increased efficiency. Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total customer costs and savings expected to result from new standards at specific efficiency levels. DOE calculated NES and NPV for each candidate standard level as the difference between a base case forecast (without new standards) and the standards case forecast (with standards at that level). Cumulative energy savings are the sum of the annual NES determined over a specified time period. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, estimated equipment lifetimes, and estimates of changes in shipments in response to changes in equipment costs due to standards. Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE consulted with interested parties as part of its process for conducting all of the analyses and invites further input from the public on these topics. The preliminary analytical results are subject to revision following review and input from the public.

The Department encourages those who wish to participate in the public meeting to obtain the preliminary TSD and to be prepared to discuss its contents. A copy of the preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD; the Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for this equipment or that DOE should address in the NOPR.

Furthermore, the Department invites all interested parties, regardless of whether they participate in the public meeting, to submit in writing by September 7, 2012, comments, data, and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of energy conservation standards for commercial and industrial electric motors.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters covered under United States antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, the Department will consider all comments and additional information that it obtains from interested parties or through further

analyses. Afterwards, the Department will publish either a determination that the standards for commercial and industrial electric motors need not be amended or a NOPR proposing to amend those standards. Any NOPR will include proposed energy conservation standards for the equipment covered by this rulemaking, and interested parties will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on July 10, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–17878 Filed 7–20–12; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. OSHA–2011–0184]

RIN 1218–AC65

Updating OSHA Construction Standards Based on National Consensus Standards; Head Protection; Correction of Notice of Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: OSHA is correcting a notice of proposed rulemaking (NPRM) with regard to the construction industry head protection standards to eliminate confusion resulting from a drafting error. OSHA published the NPRM on June 22, 2012 (77 FR 37617). OSHA also is publishing a correction to the direct final rule that it published the same day in the **Federal Register** (77 FR 37587).

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Contact Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

Technical inquiries: Contact Kenneth Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663; email: *stevanus.ken@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA is making the following correction in FR document number 2012–15031, appearing on page 37630 in the **Federal Register** of Friday, June 22, 2012:

§ 1926.100 [Corrected]

On page 37630, correct instruction number 16, to read as follows:

16. Amend § 1926.100 as follows:

a. Remove paragraph (c).

b. Revise paragraph (b) to read as follows:

1926.100 Head protection.

* * * * *

(b) *Criteria for head protection.* (1) The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1926.6.

(2) The employer must ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 (''Electrical Insulation'') of any of the consensus standards identified in paragraph (b)(1) of this section.

(3) OSHA will deem any head protection device that the employer demonstrates is at least as effective as a head protection device constructed in accordance with one of the consensus standards identified in paragraph (b)(1) of this section to be in compliance with the requirements of this section.

Signed at Washington, DC on July 17, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2012–17871 Filed 7–20–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0553; FRL–9702–7]

Partial Approval and Partial Disapproval of Air Quality Implementation Plans for Florida, Mississippi, and South Carolina; Clean Air Act Section 110(a)(2)(D)(i)(I) Transport Requirements for the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove revisions to the State Implementation Plans (SIPs) for Florida, Mississippi, and South Carolina submitted on September 23, 2009, October 6, 2009 and September 18, 2009, respectively. EPA is proposing to approve the determinations, contained in those submittals, that the existing SIPs for Florida, Mississippi, and South Carolina are adequate to meet the obligation under section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA or Act) to address interstate transport requirements with regard to the 2006 24-hour particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). Specifically, the interstate transport requirements contained in section 110(a)(2)(D)(i)(I) of the CAA prohibit a state's emissions from significantly contributing to nonattainment or interfering with the maintenance of the NAAQS in any other state. EPA is proposing to approve the States' determinations that their existing SIPs satisfy this requirement and to conclude that additional control measures are not necessary under section 110(a)(2)(D)(i)(I) because emissions from Florida, Mississippi and South Carolina do not contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state. EPA is also proposing to disapprove the SIP submissions from Florida, Mississippi and South Carolina to the extent that they rely on the Clean Air Interstate Rule to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. Because the Clean Air Interstate Rule has been remanded by the court and did not address the 2006 $PM_{2.5}$ NAAQS, it cannot be relied upon to satisfy any requirements related to that NAAQS. In this action, EPA is only addressing the SIP revisions respecting section

110(a)(2)(D)(i)(I). The SIP revisions respecting the remainder of section 110(a)(2)(D)(i) and sections 110(a)(2)(A)–(M), except for sections 110(a)(2)(C) and 110(a)(2)(I) nonattainment area requirements, are being addressed in separate actions.

DATES: Written comments must be received on or before August 22, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0553, 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–2010–0553,'' 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:* 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 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0553. 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: Sean Lakeman, 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. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for this proposed action?

A. 2006 24-Hour $PM_{2.5}$ Infrastructure Requirements

On September 21, 2006, EPA revised the 24-hour average $PM_{2.5}$ primary and secondary NAAQS from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$ based on a 3-year average of the 98th percentile of 24-hour concentrations. 71 FR 61144 (October 17, 2006). Section 110(a)(1) of the CAA requires states to submit to EPA SIPs that provide for the ''implementation, maintenance, and enforcement'' of a new or revised NAAQS within 3 years after promulgation of such standards, or within such shorter period as EPA may prescribe.[1] Sections 110(a)(1) and (2) require these submissions to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. EPA thus refers to these submissions as ''infrastructure'' SIPs. States were required to submit such SIPs to EPA no later than September 21, 2009, for the 2006 24-hour $PM_{2.5}$ NAAQS. SIPs must address the requirements of 110(a)(2), as applicable, including section 110(a)(2)(D)(i)(I), which pertains to interstate transport of certain emissions.

On July 6, 2011, WildEarth Guardians and Sierra Club filed an amended complaint alleging that EPA had failed to take final action on SIP submittals addressing the ''infrastructure'' requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. On October 20, 2011, EPA entered into a consent decree with WildEarth Guardians and Sierra Club which required EPA, among other things, to sign for publication in the **Federal Register** a notice of the Agency's final action either approving, disapproving, or approving in part and disapproving in part the Florida, Mississippi, and South Carolina 2006 24-hour $PM_{2.5}$ NAAQS infrastructure SIP submittals addressing the applicable requirements of sections 110(a)(2)(A)–(H), (J)–(M), except for section 110(a)(2)(C) the nonattainment area requirements and the visibility requirements of section 110(a)(2)(D)(i)(II), no later than September 30, 2012.

[1] The rule establishing the revised $PM_{2.5}$ NAAQS was signed by the Administrator and publically disseminated on September 21, 2006. Because EPA did not prescribe a shorter period for 110(a) ''infrastructure'' SIP submittals, these submittals were due on September 21, 2009, three years from the September 21, 2006, signature date pursuant to section 110(a)(1) of the CAA. *See* 42 U.S.C. 7410(a)(1).

B. Background on Infrastructure Actions

Section 110(a) imposes the obligation upon states to make infrastructure SIP submissions to EPA for each new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, some states may need to adopt language specific to the $PM_{2.5}$ NAAQS to ensure that they have adequate SIP provisions to implement the $PM_{2.5}$ NAAQS.

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. As a general matter, the infrastructure requirements are listed in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' and September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards.'' Although all the elements are identified below, today's action pertains only to Section 110(a)(2)(D)(i)(I).

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and the applicable requirements of part D.[2]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

EPA is currently acting upon SIPs that address the infrastructure requirements of CAA section 110(a)(1) and (2) for ozone and $PM_{2.5}$ NAAQS for various states across the country. EPA has previously discussed the scope of such actions in prior infrastructure actions. *See, e.g.,* 76 FR 14631 (March 17, 2011); 76 FR 41123 (July 13, 2011). Because today's action is focused on only the 110(a)(2)(D)(i)(I) infrastructure element, EPA is not repeating its previously articulated discussion on the scope of infrastructure SIP actions; however, such considerations remain applicable here.

The requirement for the SIP submissions at issue arises out of CAA section 110(a)(1). That provision requires that states must make a SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)'' and that these SIPs are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must meet. EPA has historically referred to these particular submissions that states must make after the promulgation of a new or revised NAAQS as ''infrastructure SIPs.'' This specific term does not appear in the statute, but EPA uses the term to distinguish this particular type of SIP submission designed to address basic structural requirements of a SIP from other types of SIP submissions designed to address other different requirements, such as ''nonattainment SIP'' submissions required to address the nonattainment planning requirements of part D, ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section 169A, NSR permitting program submissions required to address the requirements of part D, and a host of other specific types of SIP submissions that address other specific matters.

Notwithstanding that section 110(a)(2) provides that ''each'' SIP submission must meet the list of requirements therein, EPA has long noted that this literal reading of the statute is internally inconsistent, insofar as section 110(a)(2)(I) pertains to nonattainment SIP requirements that could not be met on the schedule provided for these SIP submissions in section 110(a)(1).[3] This illustrates that EPA must determine which provisions of section 110(a)(2) may be applicable for a given infrastructure SIP submission. Similarly, EPA has previously decided that it could take action on different parts of the larger, general ''infrastructure SIP'' for a given NAAQS without concurrent action on all subsections, such as section 110(a)(2)(D)(i), because the Agency bifurcated the action on these latter ''interstate transport'' provisions within section 110(a)(2) and worked with states to address each of the four prongs of section 110(a)(2)(D)(i) with substantive administrative actions proceeding on different tracks with different schedules.[4] This illustrates that EPA may conclude that subdividing the applicable requirements of section 110(a)(2) into separate SIP actions may sometimes be appropriate for a given NAAQS where a specific substantive action is necessitated, beyond a mere submission addressing basic structural aspects of the state's implementation plans.

C. Transport Rules

EPA has previously addressed the requirements of section 110(a)(2)(D)(i)(I) in past regulatory actions such as the 1998 NO_X SIP call, the 2005 Clean Interstate Rule (CAIR), and the 2011 Cross-State Air Pollution Rule (CSAPR), also known as the Transport Rule.[5] In the 1998 NO_X SIP call, EPA evaluated whether or not the ozone-season NO_X emissions in certain states had prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions

[2] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8–Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' and the September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards,'' but as mentioned above is not relevant to today's proposed rulemaking.

[3] *See Id.,* 70 FR 25162 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[4] EPA issued separate guidance to states with respect to SIP submissions to meet section 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. *See* ''Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8–Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' from William T. Harnett, Director Air Quality Policy Division OAQPS, to Regional Air Division Director, Regions I–X, dated August 15, 2006.

[5] *See* 63 FR 57371 (October 27, 1998), NO_X SIP Call; 70 FR 25172 (May 12, 2005), CAIR; and 76 FR 48208 (August 8, 2011) (Transport Rule, also known as Cross-State Air Pollution Rule or CSAPR).

to eliminate the NO_X emissions, whether through participation in a regional cap and trade program or by other means. EPA's general approach to section 110(a)(2)(D) in the NO_X SIP call was upheld in *Michigan* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA's approach to interference with maintenance in the NO_X SIP call was not explicitly reviewed by the court. *See North Carolina* v. *EPA,* 531 F.3d 896, 907–09 (D.C. Cir. 2008).

On May 12, 2005, EPA published the Clean Air Interstate Rule (CAIR) in the **Federal Register**. *See* 70 FR 25162. CAIR required States to reduce emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) that significantly contribute to nonattainment and interfere with maintenance of the 1997 NAAQS for $PM_{2.5}$ and/or ozone in any downwind state. EPA was sued by a number of parties on various aspects of CAIR and on July 11, 2008, the U.S. Court of Appeals for the District of Columbia (D.C. Circuit) issued its decision to vacate and remand both CAIR and the associated CAIR federal implementation plans (FIPs) in their entirety. *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). Among other things, the Court found that EPA failed to give independent meaning to the term ''interfere with maintenance.'' Subsequently, in response to EPA's petition for rehearing, the Court issued an order remanding CAIR to EPA without vacating either CAIR or the CAIR federal implementation plans (FIPs). *See North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008). The Court remanded the rule to EPA without vacatur because it found that ''allowing CAIR to remain in effect until it is replaced by a rule consistent with [the court's] opinion would at least temporarily preserve the environmental values covered by CAIR.'' *North Carolina* v. *EPA,* 550 F.3d at 1178.

In order to address the judicial remand of CAIR, EPA promulgated a new rule to address interstate transport pursuant to section 110(a)(2)(D)(i)(I), in the eastern United States, the ''Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone'' (i.e., the Transport Rule, also known as the Cross-State Air Pollution Rule (CSAPR)). *See* 76 FR 48208 (August 8, 2011). In the Transport Rule, EPA finalized regulatory changes to sunset (i.e., discontinue) CAIR and the CAIR FIPs for control periods in 2012 and beyond. *See* 76 FR 48321.

On December 30, 2011, the D.C. Circuit issued an order addressing the status of the Transport Rule and CAIR in response to motions filed by numerous parties seeking a stay of the Transport Rule pending judicial review. In that order, the D.C. Circuit stayed the Transport Rule pending the court's resolution of the petitions for review of that rule in *EME Homer Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases). The court also indicated that EPA is expected to continue to administer CAIR in the interim until the court rules on the petitions for review of the Transport Rule.

II. What is EPA's analysis of Florida's, Mississippi's, and South Carolina's compliance with section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS?

On September 25, 2009, EPA issued a guidance entitled, ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (2006 $PM_{2.5}$ NAAQS Infrastructure Guidance). EPA developed the 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance to provide additional recommendations to states for developing SIP submissions to meet the requirements of section 110, including 110(a)(2)(D)(i) for the revised 2006 24-hour $PM_{2.5}$ NAAQS.

In the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance, EPA explained that submissions from states pertaining to the ''significant contribution'' and ''interfere with maintenance'' requirements in section 110(a)(2)(D)(i)(I) must contain adequate provisions to prohibit air pollutant emissions from within the state that contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any other state. In the Infrastructure Guidance, EPA explained that states could not rely on the CAIR to comply with CAA section 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS because CAIR does not address this NAAQS. Recognizing that the demonstration required may be a challenging task for the affected states, EPA also noted in the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance the Agency's intention to complete a rule to address interstate pollution transport in the eastern half of the continental United States (i.e., the Transport Rule). As noted above EPA published the Transport Rule in the **Federal Register** on August 8, 2011. *See* 76 FR 48208.

On September 23, 2009, October 6, 2009, and September 18, 2009, Florida, Mississippi and South Carolina, respectively, provided EPA with infrastructure submissions certifying that their current SIPs addressed all the required infrastructure elements for the 2006 24-hour $PM_{2.5}$ NAAQS. In these submissions Florida, Mississippi and South Carolina all relied on CAIR to meet section 110(a)(2)(D)(i)(I) requirements for the 2006 $PM_{2.5}$ NAAQS. CAIR addressed only the 110(a)(2)(D)(i)(I) requirements with respect to the 1997 ozone and 1997 $PM_{2.5}$ NAAQS and did not address the 2006 $PM_{2.5}$ NAAQS or any requirements related to that NAAQS. In previous actions disapproving SIP revisions for 110(a)(2)(D)(i)(I) that relied on CAIR, EPA explained both its rationale for disapproving those SIP revisions as well as describing a number of considerations for states for providing an adequate demonstration to address interstate transport requirements for the 2006 $PM_{2.5}$ NAAQS. *See, e.g.,* 76 FR 43128 (July 20, 2011); 76 FR 4588 (January 26, 2011). Among the considerations, EPA explained that the state should explain whether or not emissions from the state contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any other state, and that such a conclusion should be supported by a technical analysis. As explained in the prior disapprovals, a state may not rely on CAIR to satisfy the requirements of Section 110(a)(2)(D)(i)(I) with respect to the 2006 $PM_{2.5}$ NAAQS because CAIR addressed only the 1997 $PM_{2.5}$ and ozone NAAQS and did not address the 2006 $PM_{2.5}$ NAAQS or any requirements related to that NAAQS. In addition, CAIR was found flawed and remanded to EPA by the court. *North Carolina,* 550 F.3d at 1176–1178. Therefore, EPA is proposing to disapprove the States' submission to the extent they rely on CAIR to meet these requirements.

Since receiving these submittals, EPA conducted additional modeling, as part of the Transport Rule. This modeling supports the conclusion that these States' existing implementation plans are adequate to satisfy the requirements of section 110(a)(2)(D)(i)(I). This modeling is consistent with the types of analyses and considerations that EPA recommended states undertake in determining whether their SIPs were adequate to satisfy 110(a)(2)(D)(i)(I). Thus, EPA is now proposing to determine that the SIPs for Florida, Mississippi, and South Carolina are adequate to satisfy the requirements of 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS based on modeling conducted by EPA for the Transport Rule. The Transport Rule air quality modeling technical support document can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2012–0553. Today, EPA is also proposing to

disapprove the States' reliance on CAIR to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS, to the extent that this rule is relied upon in the infrastructure submissions.

The air quality modeling conducted for the Transport Rule evaluated interstate contributions from emissions in upwind states to projected future downwind nonattainment and maintenance receptors for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA used air quality thresholds to indentify linkages between upwind states and downwind nonattainment and maintenance receptors. The air quality threshold was calculated as 1 percent of the NAAQS, which is 0.35 $\mu g/m^3$ for 2006 24-hour $PM_{2.5}$ NAAQS. EPA found states with emissions projected to exceed this air quality threshold at one or more downwind nonattainment receptors emissions to be linked to all such receptors. Emissions from states with one or more linkages were subject to further evaluation. EPA did not conduct further evaluation of emissions from states that were not linked to any downwind receptors. The air quality modeling for the Transport Rule did not find emissions from either Florida, Mississippi, or South Carolina linked to any downwind receptors for the 2006 24-hour $PM_{2.5}$ NAAQS. Below is a summary of the air quality modeling results for Florida, Mississippi, and South Carolina. A technical support document explaining the modeling in much greater detail can be found in the docket for this rulemaking.

LARGEST CONTRIBUTION TO DOWNWIND 2006 24-HOUR $PM_{2.5}$ ($\mu G/M^3$) NONATTAINMENT AND MAINTENANCE AREAS

State	Largest downwind contribution to nonattainment for 24-hour $PM_{2.5}$ ($\mu g/m^3$)	Largest downwind contribution to maintenance for 24-hour $PM_{2.5}$ ($\mu g/m^3$)
Florida	0.07	0.03
Mississippi	0.06	0.07
South Carolina	0.29	0.25

EPA believes it is appropriate to rely on this modeling even though the U.S. Court of Appeals for the D.C. Circuit stayed the Transport Rule pending judicial review. The stay of the rule does not, by itself, invalidate the modeling and nothing in the court order staying the rule suggests that it would be improper for EPA to rely on technical modeling conducted during the lengthy rulemaking process. Further, EPA is not proposing to rely on any requirements of the Transport Rule or emission reductions associated with that rule to support its conclusion that these three states have met their 110(a)(2)(D)(i)(I) obligations with respect to the 2006 $PM_{2.5}$ NAAQS.

III. Proposed Action

EPA is proposing to partially approve and partially disapprove revisions to the State Implementation Plans (SIPs) for Florida, Mississippi, and South Carolina submitted on September 23, 2009, October 6, 2009 and September 18, 2009 respectively. EPA is proposing to approve the determinations that the existing SIPs of Florida, Mississippi, and South Carolina have adequate provisions to satisfy the obligation under section 110(a)(2)(D)(i)(I) of the CAA to address interstate transport requirements with regard to the 2006 24-hour $PM_{2.5}$ NAAQS. EPA proposes to base this action on air quality modeling, conducted by EPA during the rulemaking process for the Transport Rule. Additionally, EPA is proposing to disapprove, the SIP submissions from Florida, Mississippi and South Carolina to the extent they rely on the Clean Air Interstate Rule to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA notes, that once finalized, the partial disapproval will not trigger a FIP for these States so long as today's proposed determination that the requirements of 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS for the Florida, Mississippi and South Carolina SIPs are met, is finalized. No further action will be required on the part of Florida, Mississippi or South Carolina as a result of the proposed partial disapproval because the SIPs themselves are not deficient.

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. *See* 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 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 proposed action:

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

In addition, this proposed rule does not have tribal implications for Florida and Mississippi as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because these SIPs are 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. With regard to South Carolina, EPA notes that, pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, the Catawba Indian Nation Reservation, which is located within the State of South Carolina, is subject to all state and local environmental laws and that South Carolina regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities. Thus, the South Carolina SIP applies to the Catawba Reservation. Nonetheless, EPA has preliminarily determined that today's proposed rule determining that the South Carolina SIP meets the State's obligation under section 110(a)(2)(D)(i)(I) and disapproving its reliance upon CAIR does not have tribal implications as specified by Executive Order 13175 (65 FR 67249). EPA has also preliminarily determined that these revisions will not impose any substantial direct costs on tribal governments or preempt tribal law in South Carolina.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 12, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–17885 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2011–0317 and EPA–R01–OAR–2011–0321 (CT); EPA–R01–OAR–2011–0318 and EPA–R01–OAR–2011–0322 (ME); EPA–R01–OAR–2009–0459 and EPA–R01–OAR–2011–0323 (MA); EPA–R01–OAR–2009–0460 and EPA–R01–OAR–2011–0324 (NH); A–1–FRL–9704–2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Maine, Massachusetts, New Hampshire; Infrastructure SIPs for the 1997 and 2006 Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve most elements of submittals from the States of Connecticut, Maine, Massachusetts, and New Hampshire. We are also proposing to conditionally approve certain elements of these submittals, as well as disapprove a few elements of Massachusetts' submittals. The submittals outline how each state's State Implementation Plan (SIP) meets the requirements of section 110(a) of the Clean Air Act (CAA) for both the 1997 and 2006 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA. This SIP is commonly referred to as an infrastructure SIP. These actions are being taken under the Clean Air Act.

DATES: Written comments must be received on or before August 22, 2012.

ADDRESSES: Submit your comments, identified by EPA–R01–OAR–2011–0317 or EPA–R01–OAR–2011–0321 for comments pertaining to our proposed action for Connecticut,[1] EPA–R01–OAR–2011–0318 or EPA–R01–OAR–2011–0322 for comments pertaining to our proposed action for Maine, EPA–R01–OAR–2009–0459 or EPA–R01–OAR–2011–0323 for comments pertaining to our proposed action for Massachusetts, and EPA–R01–OAR–2009–0460 or EPA–R01–OAR–2011–0324 for comments pertaining to our proposed action for New Hampshire by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2011–0317; EPA–R01–OAR–2011–0321; EPA–R01–OAR–2011–0318; EPA–R01–OAR–2011–0322; EPA–R01–OAR–2009–0459; EPA–R01–OAR–2011–0323; EPA–R01–OAR–2009–0460; or EPA–R01–OAR–2011–0324,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID Numbers: EPA–R01–OAR–2011–0317 or EPA–R01–OAR–2011–0321 for comments pertaining to our proposed action for Connecticut, EPA–R01–OAR–2011–0318 or EPA–R01–OAR–2011–0322 for comments pertaining to our proposed action for Maine, EPA–R01–OAR–2009–0459 or EPA–R01–OAR–2011–0323 for comments pertaining to our proposed action for Massachusetts, and EPA–R01–OAR–2009–0460 or EPA–R01–OAR–2011–0324 for comments pertaining to our proposed action for New Hampshire. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is

[1] For each State, the first docket number refers to the docket for the 1997 $PM_{2.5}$ infrastructure submittal and the second docket number refers to the docket for the 2006 $PM_{2.5}$ infrastructure submittal.

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

In addition, copies of the state submittals and EPA's technical support documents are also available for public inspection during normal business hours, by appointment at the respective State Air Agency: the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630; the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333–0017; Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108; and Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1684, fax number (617) 918–0684, email *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

I. What action is EPA taking?
II. What is the background for this action?
III. What is EPA's evaluation of the States' submittals?
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is proposing action on infrastructure SIPs submitted by the States of Connecticut, Maine, Massachusetts, and New Hampshire. Pursuant to the October 2, 2007 EPA guidance [2] for addressing the SIP infrastructure elements required under sections 110(a)(1) and (2), there are fourteen section 110(a)(2) components that must be included in the SIPs that the States of Connecticut, Maine, Massachusetts and New Hampshire submitted for the 1997 and 2006 $PM_{2.5}$ NAAQS. These fourteen section 110(a)(2) components are as follows:

(A) Emission limits and other control measures.

(B) Ambient air quality monitoring/data system.

(C) Program for enforcement of control measures.

(D) Interstate transport.

(E) Adequate resources.

(F) Stationary source monitoring system.

(G) Emergency power.

(H) Future SIP revisions.

(I) Nonattainment area plan under Part D

(J) Consultation with government officials, Public notification, Prevention of significant deterioriation (PSD), and Visibility protection.

(K) Air quality modeling/Data.

(L) Permitting fees.

(M) Consultation/participation by affected local entities.

EPA is proposing to approve the submittals from all four states as fully meeting the infrastructure requirements for the 1997 and 2006 $PM_{2.5}$ standards for the following 110(a)(2) elements and sub-elements: (B), (C) (enforcement program), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation), (J) (public notification), (K), (L), and (M).

EPA also is proposing to approve the submittals from Maine and New Hampshire as fully meeting the infrastructure requirements for the 1997 and 2006 $PM_{2.5}$ standards for the two prongs of section 110(a)(2)(D)(i)(I). These two prongs are (1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (2) interfere with maintenance by any other state with respect to the same NAAQS. In addition, EPA is proposing to approve the submittals from Maine for the prong of section 110(a)(2)(D)(i)(II) related to interference with visibility protection, and the submittals from New Hampshire for 110(a)(2)(D)(ii) related to interstate and international pollution abatement.

EPA is proposing to conditionally approve the submittals from all four states for the following 110(a)(2) elements and sub-elements: (A) and E(ii) (state boards and conflict of interest provisions). We are proposing to conditionally approve the submittals from three states (Connecticut, Maine, and New Hampshire) for section 110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the states' PSD programs. We are also proposing to conditionally approve the submittals from Connecticut and Maine for 110(a)(2)(D)(ii).

For Massachusetts, EPA is proposing to disapprove the state's submittals for section110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the state's PSD program, as well as (D)(ii), which relates to interstate and international pollution abatement. Notwithstanding our conclusion that the Massachusetts' 110(a) submissions do not meet these PSD requirements, the state is already subject to a Federal Implementation Plan (FIP) for PSD, and so EPA has no additional FIP obligations under section 110(c). Furthermore, the state will not be subject to mandatory sanctions as a result of this disapproval.

II. What is the background for this action?

On July 18, 1997, EPA published new NAAQS for particulate matter (PM) (62 FR 38652). This included a new annual and a new 24-hour NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (denoted $PM_{2.5}$). The annual $PM_{2.5}$ standard was set at 15 micrograms per cubic meter ($\mu g/m^3$) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and the 24-hour $PM_{2.5}$ standard was set at 65 $\mu g/m^3$ based on a 3-year average of the 98th percentile of 24-hour concentrations.

Thus, states were required to submit ''infrastructure'' SIPs for the 1997 $PM_{2.5}$ NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 $PM_{2.5}$ (and 1997 8-hour ozone) NAAQS created uncertainty about how to proceed, and many states did not provide the required ''infrastructure'' SIP submissions for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the infrastructure requirements for the 1997 $PM_{2.5}$ (and 8-hour ozone) NAAQS. With regard to the 1997 $PM_{2.5}$ NAAQS, EPA entered into a consent decree with Earthjustice, which required EPA to complete a **Federal Register** notice

[2] See ''Guidance on SIP Elements Required Under Sections 110(a)(l) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, dated October 2, 2007.

announcing EPA's determinations pursuant to section 110(k)(1)(B) of the Act as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS by October 5, 2008.

On October 17, 2006, EPA published revised standards for PM (71 FR 61144). For $PM_{2.5}$, the annual standard of 15 μg/m^3 was retained, and the 24-hour standard was revised to 35 μg/m^3. For PM_{10}, the annual standard was revoked, and the 24-hour standard (150 μg/m^3) was retained. As required by section 110(a)(1) of the CAA, 110(a)(2) (''infrastructure'') submittals were due within three years of promulgation of the revised 24-hour $PM_{2.5}$ standard (i.e., by September 21, 2009).

For the 1997 annual $PM_{2.5}$ standard, Connecticut, Maine, Massachusetts, and New Hampshire submitted certification letters to EPA on September 4, 2008; September 10, 2008; April 4, 2008; and April 3, 2008, respectively. On October 22, 2008, EPA published findings concerning whether states had made the 110(a)(2) submissions for the 1997 $PM_{2.5}$ standards (73 FR 62902). In the October 2008 action, we found that Connecticut, Maine and New Hampshire had made complete submissions. Massachusetts received a ''finding of failure to submit'' a SIP addressing section 110(a)(2)(C) and (J) pertaining to the Part C PSD permit program. However, this requirement has already been addressed by a Federal Implementation Plan (FIP) that remains in place, and therefore, the finding-of-failure action did not trigger any additional FIP obligations.

For the 2006 24-hour $PM_{2.5}$ standard, Connecticut, Maine, Massachusetts, and New Hampshire submitted certification letters to EPA on September 18, 2009; July 27, 2009; September 21, 2009; and September 18, 2009, respectively. On September 8, 2011, EPA published findings concerning whether states had made the 110(a)(2) submissions for the 2006 $PM_{2.5}$ standards (76 FR 55577). None of these four states received a finding for the 2006 $PM_{2.5}$ NAAQS.

EPA is proposing to fully approve most elements of the 110(a) submittals from Connecticut, Maine, Massachusetts, and New Hampshire. We are also proposing to conditionally approve certain elements of these submittals, as well as proposing disapproval of a few elements of Massachusetts' submittals. Elements for which we are proposing approval, conditional approval, and disapproval are listed in section I and IV of this notice.

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

III. What is EPA's evaluation of the States' submittals?

EPA has reviewed the submittals for the 1997 and 2006 $PM_{2.5}$ standards listed above and has determined that most, but not all, of each state's SIPs meet the section 110(a)(2) infrastructure requirements of the CAA and are consistent with the relevant EPA guidance. Each state's submittals and EPA's evaluation of those submittals are detailed in the following technical support documents (TSDs). These TSDs (one per state) are available on-line at *http://www.regulations.gov:* Docket numbers EPA–R01–OAR–2011–0317 and EPA–R01–OAR–2011–0321 (Connecticut), EPA–R01–OAR–2011–0318 and EPA–R01–OAR–2011–0322 (Maine), EPA–R01–OAR–2009–0459 and EPA–R01–OAR–2011–0323 (Massachusetts), and EPA–R01–OAR–2009–0460 and EPA–R01–OAR–2011–0324 (New Hampshire).

In their submittals, each state references items in their state laws, statutes, regulations and SIPs that address the elements detailed in section 110(a)(2) of the CAA. Specifically, Connecticut references the Connecticut Air Quality SIP, the Connecticut General Statutes (CGS) and the Regulations of the Connecticut State Air Agency (RCSA); Maine references the Maine Air Quality SIP, the Code of Maine Regulations (CMR) and the Maine Revised Statutes Annotated (MRSA); Massachusetts references the Massachusetts Air Quality SIP, the Massachusetts General Laws (MGL) and the Code of Massachusetts Regulations (CMR); and New Hampshire references the New Hampshire Air Quality SIP, the New Hampshire Revised Statutes Annotated (RSA) as well as the New Hampshire Rules Governing the Control of Air Pollution, and New Hampshire Administrative Rules Env-A 100 et seq.

The discussion below summarizes how each state meets each relevant CAA infrastructure requirement. As noted above, Connecticut, Maine, Massachusetts, and New Hampshire provided infrastructure submittals for both the 1997 and 2006 $PM_{2.5}$ NAAQS. However, the demonstrations submitted by each State for how it is meeting many of the section 110(a)(2) elements are substantively identical for both of the $PM_{2.5}$ NAAQS. Therefore, unless otherwise noted, the following evaluation of each element pertains to both standards. For more information, please refer to the TSDs referenced above.

A. Emission Limits and Other Control Measures

Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters. The rules approved in the EPA-approved SIPs for Connecticut, Maine, Massachusetts and New Hampshire apply a substantial level of control on $PM_{2.5}$ and $PM_{2.5}$ precursors.

In January 2011, Connecticut revised Section 22a–174–3a. However, to be sure that references to NAAQS in Section 22a–174 incorporate by reference the 1997 and 2006 $PM_{2.5}$ NAAQS, Connecticut submitted a letter to EPA, dated July 11, 2012, committing to provide a statement of legal authority or to take any necessary actions to meet requirements of section 110(a)(2)(A) by a date no later than one year from conditional approval of Connecticut's $PM_{2.5}$ infrastructure submissions. Therefore, we are proposing to conditionally approve Connecticut's submissions for infrastructure element 110(a)(2)(A).

Maine's Ambient Air Quality Standards in Chapter 110 currently do not reflect the 1997 or 2006 $PM_{2.5}$ NAAQS. However, the Maine Department of Environmental Protection (ME DEP) has recently proposed revisions to Chapter 110 to address the more recent NAAQS. On June 30, 2012, Maine submitted a letter to EPA committing to adopt and submit the necessary regulation revisions to EPA by a date that is no later than one year from conditional approval of Maine's $PM_{2.5}$ infrastructure submissions. Therefore, we propose to conditionally approve Maine's 110(a) submissions for infrastructure element 110(a)(2)(A).

Regarding Massachusetts, the current SIP-approved 310 CMR 6.00 (Ambient Air Quality Standards) does not reflect the 1997 or 2006 $PM_{2.5}$ NAAQS. Massachusetts has submitted a letter to EPA on July 12, 2012, committing to take action to meet requirements of section 110(a)(2)(A) by a date no later than one year from conditional approval of Massachusetts' $PM_{2.5}$ infrastructure submissions. Therefore, we are proposing to conditionally approve Massachusetts' 110(a) submissions for infrastructure element 110(a)(2)(A).

For New Hampshire, the current SIP-approved Env-A 300 (Ambient Air Quality Standards) does not reflect the 1997 or 2006 $PM_{2.5}$ NAAQS. However,

in March 2012, New Hampshire proposed the necessary revisions to Env-A 300, and has submitted a letter dated June 29, 2012, committing to adopt and submit the necessary regulation revisions to EPA by a date that is no later than one year from conditional approval of New Hampshire's $PM_{2.5}$ infrastructure submissions. We propose to conditionally approve New Hampshire's 110(a) submissions for infrastructure element 110(a)(2)(A).

B. Ambient Air Quality Monitoring/Data System

Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air-quality monitors, collecting and analyzing ambient air-quality data, and making these data available to EPA upon request. Connecticut, Maine, Massachusetts and New Hampshire have all established and currently operate ambient air-quality monitors and submit the data collected to EPA. All four states have submitted annual air monitoring network plans which have been approved by EPA. We conclude that all four states' infrastructure SIPs for the 1997 and 2006 $PM_{2.5}$ NAAQS meet the requirements of section 110(a)(2)(B).

C. Program for Enforcement of Control Measures

Section 110(a)(2)(C) requires states to have a plan that includes a program providing for enforcement of all SIP measures and the regulation of modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a program to meet PSD and nonattainment New Source Review (NSR) requirements.

Recent $PM_{2.5}$ PSD rules that require updates to state regulations and subsequent submittal to EPA for approval include ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28321, May 16, 2008) and ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (75 FR 64864, October 20, 2010). States were also required to update their regulations to meet PSD rules related to greenhouse gas (GHG) emissions. These are the ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (75 FR 31514, June 3, 2010), as modified by the ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans'' or ''Narrowing Rule'' (75 FR 82536, December 30, 2010). The effect of EPA narrowing its approval in this manner is that the provisions of previously approved SIPs that apply PSD to increases in GHG emissions from sources that emit GHGs below the Tailoring Rule thresholds have the status of having been submitted by the state, but not yet acted upon by EPA.

In this action, we are not evaluating nonattainment-related provisions, such as the nonattainment NSR program required by part D in 110(a)(2)(C) and measures for attainment required by section 110(a)(2)(I), as part of the infrastructure SIPs for the 1997 and 2006 $PM_{2.5}$ NAAQS because these submittals are required beyond the date (3 years from NAAQS promulgation) that section 110 infrastructure submittals are required.

The Connecticut PSD program is established in RCSA section 22a–174–3a (k). This PSD program was approved into the SIP on May 10, 2011 (76 FR 26933). Connecticut has authority to issue PSD permits and enforce them under its approved PSD SIP. EPA recently approved changes to Connecticut's PSD program on May 10, 2011, to reflect changes in the federal PSD program related to the permitting of greenhouse gas emission (76 FR 26933). This PSD program takes advantage of the Tailoring Rule thresholds for PSD applicability.

New Hampshire's PSD provisions for air-quality permits are established in Env-A 619. The most recent version of the state's Statewide Permit System (Env-A 600) was approved into the New Hampshire SIP on February 6, 2012 (77 FR 5700). New Hampshire has authority to issue PSD permits and enforce them under its approved PSD SIP. EPA recently approved changes to New Hampshire's PSD program that reflect changes in the federal PSD program related to the permitting of greenhouse gas emission (77 FR 5700, February 6, 2012). This PSD program takes advantage of the Tailoring Rule thresholds for PSD applicability by relying on the GHG PSD Narrowing Rule.

For Connecticut and New Hampshire, EPA is proposing to make a determination that the state 110(a) submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS do not meet the portions of section 110(a)(2)(C) which relate to the state's need to have a federally enforceable PSD program that meets requirements of the two major source $PM_{2.5}$ PSD rules, ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28321, May 16, 2008), and ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (75 FR 64864, October 20, 2010). However, Connecticut and New Hampshire are making progress. On June 15, 2012, Connecticut submitted a letter to EPA committing to adopt and submit the necessary regulation revisions to EPA by a date no later than one year from conditional approval of Connecticut's $PM_{2.5}$ infrastructure submissions. On June 28, 2012, New Hampshire submitted a letter to EPA committing to adopt and submit the necessary regulation revisions to EPA by a date no later than one year from conditional approval of New Hampshire's $PM_{2.5}$ infrastructure submissions. Therefore, we propose to conditionally approve Connecticut's and New Hampshire's 110(a) submissions for infrastructure element 110(a)(2)(C) as it relates to the states' need to have a PSD program that meets all federal requirements. As discussed below, for these states, we are also proposing to conditionally approve related elements (D)(i)(II) and (J).

The Maine PSD program is established in CMR (Maine Regulations) Chapters 100, 113, 115 (licensing for minor sources) and 140 (licensing for major sources). Maine implements its PSD program requirements under CMR Chapter 115. This PSD program was approved into the SIP on February 14, 1996 (61 FR 5690). Maine has authority to issue PSD permits and enforce them under its approved PSD SIP. Maine has adopted revisions to its PSD permitting program to address GHG emissions, but has not yet submitted these rules to EPA.

For Maine, EPA is proposing to make a determination that the state 110(a) submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS do not meet the portions of section 110(a)(2)(C) which relate to the state's need to have a federally enforceable PSD program that meets requirements of the two major source $PM_{2.5}$ PSD rules listed above (73 FR 28321, May 16, 2008 and 75 FR 64864, October 20, 2010). In addition, Maine's current PSD regulations do not properly account for NO_X as a precursor to ozone as required by the Phase 2 Ozone Implementation Rule (70 FR 71612, November 29, 2005). However, ME DEP is in the process of adopting rules to meet its obligations for PSD under the

Phase 2 Ozone Implementation Rule, and, on June 13, 2012, Maine submitted a letter to EPA committing to adopt and submit regulation revisions to EPA to meet requirements of section 110(a)(2)(C) by a date that is no later than one year from conditional approval of the state's $PM_{2.5}$ 110(a) submissions. Therefore, we are proposing to conditionally approve Maine's 110(a) submittals with respect to section 110(a)(2)(C) for the 1997 and 2006 $PM_{2.5}$ NAAQS. As discussed below, we are also proposing to conditionally approve related elements (D)(i)(II) and (J).

Massachusetts does not have an approved PSD SIP, and has long been subject to a Federal Implementation Plan (FIP). Between 1982 and 2003, Massachusetts implemented that FIP through a delegation agreement. Massachusetts rescinded the delegation agreement in 2003. However, effective April 11, 2011, EPA Region 1 granted the Massachusetts Department of Environmental Protection (MassDEP) full delegation authority to implement and enforce the Federal PSD program (76 FR 31241). Because the state is subject to a PSD FIP, its infrastructure submissions are not approvable with respect to this element. However, the state is not subject to mandatory sanctions solely as a result of this type of infrastructure SIP disapproval, for the reason that the SIP deficiencies are neither with respect to a submittal that is required under part D nor in response to a SIP call under section 110(k)(5) of the CAA. Moreover, the requirements for which the state is subject to the FIP are already satisfied by the FIP, and so EPA has no additional FIP obligations under section 110(c).

For these reasons, we conclude that Massachusetts' infrastructure SIPs for the 1997 and 2006 $PM_{2.5}$ NAAQS meet the enforcement and minor NSR requirements, but not the PSD requirements of section 110(a)(2)(C). Therefore, we are proposing to disapprove Massachusetts' 110(a) submittals with respect to section 110(a)(2)(C) for the 1997 and 2006 $PM_{2.5}$ NAAQS. Notwithstanding our conclusion that the Massachusetts' 110(a) submissions do not meet the PSD requirements of section 110(a)(2)(C), the state is not subject to mandatory sanctions as a result of this disapproval. As discussed below, we are also proposing to disapprove related elements (D)(i)(II) and (J).

D. Interstate Transport

Section 110(a)(2)(D) is divided into two components, 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). In addition, EPA has subdivided section 110(a)(2)(D)(i) into four ''prongs,'' two under 110(a)(2)(D)(i)(I) and two under 110(a)(2)(D)(i)(II). The two prongs under 110(a)(2)(D)(i)(I) are (prong 1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (prong 2) interfere with maintenance by any other state with respect to the same NAAQS. The two prongs under 110(a)(2)(D)(i)(II) are (prong 3) interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality or (prong 4) to protect visibility.

Section 110(a)(2)(D)(ii) addresses interstate and international pollution abatement, and requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

Connecticut

In this action for Connecticut, we are only addressing prong 3 of 110(a)(2)(D)(i) (interference with PSD) for the 2006 $PM_{2.5}$ NAAQS.

As discussed above under (C) (program for enforcement of control measures), Connecticut's PSD program does not yet meet requirements of the most recent federal PSD rules (73 FR 28321, May 16, 2008 and 75 FR 64864, October 20, 2010), but Connecticut has committed to revising its PSD regulations to meet current requirements. Therefore, we are proposing to conditionally approve prong 3 of 110(a)(2)(D)(i) in Connecticut's 110(a) submittal for the 2006 $PM_{2.5}$ NAAQS.

Regarding section 110(a)(2)(D)(ii), Connecticut's PSD regulations provide for notice to most of the parties consistent with the requirements in the EPA PSD program. There is, however, a flaw in Connecticut's SIP-approved PSD program regarding notice to other states. Compare CAA section 126 (a)(1) and 40 CFR 51.166(q)(2)(iv) (requiring notice to, among others, ''any State * * * or Indian Governing body whose lands may be affected by emissions from the source or modification'') with RCSA 22a–174–2a(b)(6) (specifically excluding other states from the list of parties to receive copies of draft PSD permits). Although there is no specific mandate in Connecticut's regulations that affected states receive notice, Connecticut issues extensive notice of its draft permits, and neighboring states consistently get copied on those drafts. On January 12, 2012, Connecticut proposed revisions to their permit program notification requirements in 22a–174–2a(b)(5) and (6). On June 15, 2012, Connecticut sent a letter to EPA committing to submit the adopted provision to EPA by a date that is no later than one year from conditional approval of Connecticut's $PM_{2.5}$ infrastructure submissions. Also, the State also has no pending obligations under section 115 or 126(b) of the Act. Therefore, we are proposing to conditionally approve Connecticut's submissions for infrastructure element 110(a)(2)(D)(ii).

Maine

In this action for Maine, we are addressing all four prongs of 110(a)(2)(D)(i). On June 30, 2012, Maine submitted a letter to EPA certifying that it is not contributing significantly to nonattainment or interfering with maintenance of the 1997 or 2006 $PM_{2.5}$ NAAQS in any other state. EPA agrees and has conducted modeling for the Clean Air Interstate Rule (CAIR) (70 FR 25162, May 12, 2005) and for the Cross State Air Pollution Rule (CSAPR) (76 FR 48208, August 8, 2011) that shows that Maine does not contribute to nonattainment or interfere with maintenance in any other state. Therefore, we are proposing to approve Maine's submissions with respect to prongs 1 and 2 of 110(a)(2)(D)(i).

Regarding prong 3 under section 110(a)(2)(D)(i), as discussed under (C) (program for enforcement of control measures), Maine's SIP-approved PSD program does not yet meet requirements of the most recent federal PSD rules for implementing the $PM_{2.5}$ NAAQS or the Phase 2 Ozone Implementation Rule, but Maine has committed to revising its PSD regulations to meet current requirements. Therefore, we are proposing to conditionally approve prong 3 of 110(a)(2)(D)(i) in Maine's 110(a) submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Regarding prong 4 under section 110(a)(2)(D)(i) (interference with visibility protection), EPA proposes to approve Maine's 110(a) submissions. Specifically, Maine submitted a Regional Haze SIP to EPA on December 9, 2010, with supplemental submittals on September 14, 2011 and November 9, 2011. On April 24, 2012, EPA approved Maine's Regional Haze SIP for the first planning period from 2008 through 2018 (77 FR 24385).

Regarding section 110(a)(2)(D)(ii), Maine's currently approved SIP, which EPA approved on February 14, 1996 (61 FR 5690), provides for notice to various parties consistent with the requirements in the EPA PSD program at 40 CFR 51.166(q)(iv). (Maine has since revised its notice regulation for PSD permits,

and since the approved SIP's notice regulation is adequate, we are not presently reviewing the revised regulation.) In its 110(a) submissions, the state certified that it has no pending obligations under section 115 or 126(b) of the CAA. As noted in the June 2011 addendum to their 110(a) submittals, Maine notifies affected states regarding new source and modifications under its Chapter 140 Part 70 Air Emission License Regulations. However, this regulation has not been approved into the Maine SIP. On June 13, 2012, Maine submitted a letter to EPA committing to adopt and submit the necessary regulation revisions to EPA by a date that is no later than one year from conditional approval of Maine's $PM_{2.5}$ infrastructure submissions. Therefore, we are proposing to conditionally approve Maine's submissions for infrastructure element 110(a)(2)(D)(ii).

Massachusetts

In this action for Massachusetts, we are only addressing prong 3 of 110(a)(2)(D)(i) (i.e., interference with PSD). As discussed under (C) (program for enforcement of control measures), Massachusetts is currently subject to a PSD FIP. A state's infrastructure SIP submittal cannot be considered for approvability with respect to prong 3 until EPA has issued final approval of that state's PSD SIP or, alternatively, has issued final approval of a SIP that EPA has otherwise found adequate to prohibit interference with other states' measures to prevent significant deterioration of air quality. Therefore, we are proposing to disapprove Massachusetts' 110(a) submissions for prong 3 of 110(a)(2)(D)(i). However, this disapproval will not trigger any sanctions or additional FIP obligation.

Regarding section 110(a)(2)(D)(ii), which relates to interstate and international pollution abatement, as noted above, Massachusetts is subject to a PSD FIP. States relying on the federal PSD program requirements of 40 CFR 52.21(q), which provide for notification of affected state and local air agencies, to satisfy this requirement have programs that are considered technically deficient and not approvable. Therefore, we are proposing to disapprove Massachusetts' submissions for infrastructure element 110(a)(2)(D)(ii). However, this disapproval will not trigger any sanctions or additional FIP obligation.

New Hampshire

In this action for New Hampshire, we are addressing prongs 1, 2 and 3 of 110(a)(2)(D)(i) for the 2006 $PM_{2.5}$ NAAQS. On July 3, 2012, New Hampshire submitted a letter to EPA certifying that it is not contributing significantly to nonattainment or interfering with maintenance of the 1997 or 2006 $PM_{2.5}$ NAAQS in any other state. EPA agrees and has conducted modeling for the Clean Air Interstate Rule (70 FR 25162, May 12, 2005) and for the Cross State Air Pollution Rule (76 FR 48208, August 8, 2011) that shows that New Hampshire does not contribute to nonattainment or interfere with maintenance in any other state. Therefore, we are proposing to approve New Hampshire's submissions with respect to prongs 1 and 2 of 110(a)(2)(D)(i).

Regarding prong 3 under section 110(a)(2)(D)(i), as discussed under (C) (program for enforcement of control measures), New Hampshire's SIP-approved PSD program does not yet meet requirements of the most recent federal PSD rules for implementing the $PM_{2.5}$ NAAQS, but New Hampshire has committed to revising its PSD regulations to meet current requirements. Therefore, we are proposing to conditionally approve prong 3 of 110(a)(2)(D)(i) in New Hampshire's 110(a) submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Regarding section 110(a)(2)(D)(ii), New Hampshire is required to give notice of draft PSD permits that meet the requirements in our regulations. In the currently approved SIP, former Env-A 205.03 provides that New Hampshire specifically defers to 40 CFR Part 52 for the process by which PSD permits are issued. Forty CFR Part 52 effectively incorporates the requirements of 40 CFR Part 124, which include affected state notice. (See 40 CFR 124.10(c)(1)(iii), (vii) & (x).) (New Hampshire has since revised its notice regulation for PSD permits, Env-A 621.03–04, and it does not reference 40 CR Part 52. However, since the approved SIP's notice regulation is adequate, we are not presently reviewing the revised regulation.) The State also has no pending obligations under section 115 or 126(b) of the Act. Therefore, we are proposing to approve New Hampshire's submissions for infrastructure element 110(a)(2)(D)(ii).

E. Adequate Resources

Section 110(a)(2)(E) requires states to provide (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out the SIP (and is not prohibited by any provision of federal or state law from carrying out the SIP or portion thereof), (ii) requires that the state comply with the requirements respecting state boards under section 128, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of such SIP provision.

Congress added section 128 in the 1977 amendments as the result of a conference agreement. Titled ''State boards,'' section 128 provides in relevant part: (a) Not later than the date one year after August 7, 1977, each applicable implementation plan shall contain requirements that:

(1) Any board or body which approves permits or enforcement orders under [this Act] shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under [this Act], and (2) Any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

Connecticut, Maine, Massachusetts and New Hampshire have SIP-approved regulations that provide adequate authority for each of the states to carry out their SIP obligations with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS. Each of the four states receives sections 103 and 105 grant funds through their Performance Partnership Grants along with required state-matching funds to provide funding necessary to carry out their SIP requirements. Therefore, EPA proposes to find that Connecticut, Maine, Massachusetts and New Hampshire have sufficient resources to meet the requirements of section 110(a)(2)(E)(i).

With regard to section 110(a)(2)(E)(ii), Maine and New Hampshire have state boards, Maine Board of Environmental Protection and New Hampshire Air Resources Council, that approve permits or enforcement orders under the CAA. Therefore, both states are subject to the requirements of subsection 128(a)(1), as well as to the requirements of section 128(a)(2). However, although both states have conflict-of-interest provisions in their general statutes, they have not been approved by EPA into either the Maine or New Hampshire SIP. These items were not addressed in Maine and New Hampshire's original $PM_{2.5}$ infrastructure SIP submittals. In a letter dated June 29, 2012, New Hampshire submitted its statute addressing conflict of interest for SIP approval. EPA has not yet acted on this submittal. Also, in a letter dated June 13, 2012, Maine committed to submitting the statutory provisions pertaining to conflict of

interest to EPA within one year of our final action on its $PM_{2.5}$ infrastructure SIP. Therefore, we are proposing to conditionally approve the infrastructure submittals for both Maine and New Hampshire with respect to section 110(a)(2)(E)(ii).

Connecticut and Massachusetts do not have state boards that approve permits or enforcement orders under the CAA. Instead, permits and enforcement orders are approved by each state's Commissioner of Environmental Protection. Thus, Connecticut and Massachusetts are not subject to the requirements of subsection 128(a)(1). However, they are subject to the requirements of section 128(a)(2), but neither state demonstrated in their infrastructure submittals that they have met these requirements. Subsequently, on June 15, 2012, Connecticut submitted a letter to EPA committing to address this issue by a date no later than one year from conditional approval of Connecticut's $PM_{2.5}$ Infrastructure submittals. Massachusetts submitted a similar commitment letter to EPA on July 12, 2012. Therefore, we are proposing to conditionally approve Connecticut's and Massachusetts' submissions with respect to section 110(a)(2)(E)(ii).

With respect to section 110(a)(2)(E)(iii), none of the four states has assigned responsibility for carrying out portions of the SIP to any local government, agency, or other instrumentality. Therefore, the Connecticut, Maine, Massachusetts and New Hampshire 110(a) submittals meet the requirements for this element.

F. Stationary Source Monitoring System

Section 110(a)(2)(F) of the CAA requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. The infrastructure submittals for Connecticut, Maine, Massachusetts and New Hampshire reference specific regulations that require sources to monitor emissions and submit reports to EPA. The specific rules are referenced in the TSD for each state.

EPA has reviewed the laws and regulations that been approved into the Connecticut, Maine, Massachusetts and New Hampshire SIPs and has determined that all four states' infrastructure submittals for the 1997 and 2006 $PM_{2.5}$ standards meet the requirements for section 110(a)(2)(F).

G. Emergency Power

Section 110(a)(2)(G) of the CAA requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.

For $PM_{2.5}$, EPA's guidance dated September 25, 2009 [3] provides clarification that states that have air quality control regions identified as either Priority I, Priority IA or Priority II by the ''Prevention of Air Pollution Emergency Episodes'' rules at 40 CFR 51.150 must develop emergency episode contingency plans. The guidance recommends that until EPA establishes significant harm levels (SHL) for $PM_{2.5}$, states should establish their own SHL levels based on EPA's February 12, 2007 issue paper on setting priority and emergency action levels and also consider the recommended levels set forth in Attachment B of the September 25, 2009 guidance. States would be required to develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140.4 $\mu g/m^3$ since 2006. A state that has never exceeded this level since 2006 is considered to be Priority III in accordance with the guidance, may certify that it has appropriate general emergency powers to address $PM_{2.5}$ -related episodes, and is not required to adopt specific emergency episode plans at this time, given the existing monitored levels.

Air-quality monitors in all four states show that $PM_{2.5}$ levels for the past three years are below the 140.5 $\mu g/m^3$ threshold. Connecticut and Massachusetts certified in their infrastructure submittals that they expect to be classified as Priority III regions and, therefore, emergency episode plans for $PM_{2.5}$ are not required. Maine and New Hampshire submitted letters to EPA, dated June 13, 2012, and July 3, 2012, respectively, certifying that they expect to be classified as Priority III regions. Therefore, all four states have met the requirements of section 110(a)(2)(G) for both the 1997 and 2006 $PM_{2.5}$ standards.

H. Future SIP Revisions

Section 110(a)(2)(H) of the CAA requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining NAAQS, or in response to an EPA finding that the SIP is substantially inadequate.

Infrastructure submittals for Connecticut, Maine, Massachusetts and New Hampshire for both the 1997 and 2006 $PM_{2.5}$ standards certify that SIPs for each state may be revised should EPA find that a plan is substantially inadequate to attain a standard or to comply with any additional requirements under the CAA. Therefore, Connecticut, Maine, Massachusetts and New Hampshire have met the requirements of section 110(a)(2)(H).

I. Nonattainment Area Plan Under Part D

Section 110(a)(2)(I) of the CAA requires that each such plan shall ''in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas).'' EPA is not evaluating nonattainment-related provisions, such as the NSR program required by part D in section 110(a)(2)(C) and measures for attainment required by section 110(a)(2)(I), as part of the infrastructure SIPs because these submittals are required beyond the date (3 years from NAAQS promulgation) that section 110 infrastructure submittals are required.

J. Consultation With Government Official, Public Notification, PSD, and Visibility Protection

Section 110(a)(2)(J) requires states to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to Section 121 relating to consultation. Section 127 requires that the state notify the public of any NAAQS exceedences, advise the public of health hazards associated with such pollution, and include measures to enhance public awareness of measures that can be taken to prevent exceedances.

Section 110(a)(2)(J) also requires states to meet applicable requirements of Part C related to prevention of significant deterioration and visibility protection. EPA interprets this section 110 provision on visibility as not being ''triggered'' by a new NAAQS because the visibility requirements in part C are not changed by a new NAAQS.

Consultation With Government Officials

EPA finds that the 110(a) submittals from Connecticut, Maine, Massachusetts and New Hampshire meet the requirements of section 110(a)(2)(J) for consultation with government officials.

Public Notification

Connecticut, Maine, Massachusetts and New Hampshire are all state partners participating in EPA's AIRNOW and EnviroFlash Air Quality

[3] See ''Guidance on SIP Elements Required Under Sections 110(a)(l) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS), from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, dated September 25, 2009.

Alert programs. (See *www.airnow.gov.*) We are proposing to approve the infrastructure submittals for Connecticut, Maine, Massachusetts and New Hampshire with respect to section 110(a)(2)(J) for public notification.

PSD

Regarding the requirement in section 110(a)(2)(J) that the infrastructure submittals meet the applicable requirements of part C of title I of the CAA, EPA evaluated this requirement in the context of section 110(a)(2)(C) with respect to permitting (see discussion under (C) (program for enforcement of control measures)).

The Connecticut PSD program is established in RCSA section 22a–174–3a (k). This PSD program was approved into the SIP on May 10, 2011 (76 FR 26933). Connecticut has authority to issue PSD permits and enforce them under its approved PSD SIP. EPA recently approved changes to Connecticut's PSD program on May 10, 2011, to reflect changes in the federal PSD program related to the permitting of greenhouse gas emission (76 FR 26933, May 10, 2011). This PSD program takes advantage of the Tailoring Rule thresholds for PSD applicability. However, as discussed under (C) (program for enforcement of control measures), Connecticut's EPA-approved PSD program does not yet meet requirements of the two major source $PM_{2.5}$ PSD rules (73 FR 28321, May 16, 2008 and 75 FR 64864, October 20, 2010). The State has, however, committed to address this issue. Therefore, we are proposing to conditionally approve the state's 110(a) submittals for the portion of section 110(a)(2)(J) that relates to PSD.

The Maine PSD program is established in CMR (Maine Regulations) Chapters 100, 113, 115 (licensing for minor sources) and 140 (licensing for major sources). Maine implements its PSD program requirements under CMR Chapter 115. This PSD program was approved into the SIP on February 14, 1996 (61 FR 5690). Maine has authority to issue PSD permits and enforce them under its approved PSD SIP. However, as discussed under (C) (program for enforcement of control measures), Maine has adopted revisions to its PSD permitting program to address GHG emissions, but has not yet submitted these rules to EPA. In addition, Maine has not completed rulemaking to meet requirements of the two $PM_{2.5}$ PSD rules (73 FR 28321, May 16, 2008 and 75 FR 64864, October 20, 2010) discussed above, nor of the Phase 2 Ozone Implementation Rule. However, Maine is making progress and, on June 13, 2012, Maine submitted a letter to EPA committing to adopt and submit the necessary regulation revisions to EPA by a date that is no later than one year from conditional approval of Maine's $PM_{2.5}$ infrastructure submissions. Therefore, we are proposing to conditionally approve the state's 110(a) submittals for the portion of section 110(a)(2)(J) that relates to PSD.

Massachusetts is currently subject to a PSD FIP, as discussed under (C) (program for enforcement of control measures). The approvability of a state's PSD program in its entirety is essential to the approvability of the infrastructure SIP with respect to section 110(a)(2)(J). Until the state provides such a program, the Massachusetts infrastructure SIP is not approvable with respect to section 110(a)(2)(J). Therefore, we propose to disapprove Massachusetts' infrastructure SIP with respect to the PSD sub-element of 110(a)(2)(J). However, as noted above, this disapproval does not impose any sanctions or new FIP obligations.

New Hampshire's PSD provisions for air-quality permits are established in Env-A 619. The most recent version of the state's Statewide Permit System (Env-A 600) was approved into the New Hampshire SIP on February 6, 2012 (77 FR 5700). New Hampshire has authority to issue PSD permits and enforce them under its approved PSD SIP. EPA recently approved changes to New Hampshire's PSD program that reflect changes in the federal PSD program related to the permitting of greenhouse gas emission (77 FR 5700, February 6, 2012). This PSD program takes advantage of the Tailoring Rule thresholds for PSD applicability by relying on the GHG PSD Narrowing Rule. However, as discussed under (C) (program for enforcement of control measures), New Hampshire's EPA-approved PSD program does not yet meet requirements of the two major source $PM_{2.5}$ PSD rules (73 FR 28321, May 16, 2008 and 75 FR 64864, October 20, 2010), or implement the 2006 $PM_{2.5}$ NAAQS itself. The State has, however, committed to address these issues. Therefore, we are proposing to conditionally approve the state's 110(a) submittals for the portion of section 110(a)(2)(J) that relates to PSD.

Visibility Protection

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation triggered under section 110(a)(2)(J) when a new NAAQS becomes effective.

K. Air Quality Modeling/Data

Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air-quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request. The infrastructure submittals for Connecticut, Maine, Massachusetts and New Hampshire reference regulations that have provisions for performing air-quality modeling, including modeling for attainment plans, permits, and redesignation requests. The specific rules are referenced in the TSD for each state.

EPA has reviewed the laws and regulations that been approved into the Connecticut, Maine, Massachusetts and New Hampshire SIPs and has determined that all four states infrastructure submittals for the 1997 and 2006 $PM_{2.5}$ standards meet the requirements for section 110(a)(2)(K).

L. Permitting Fees

Section 110(a)(2)(L) of the CAA requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit, until such time as the SIP fee requirement is superseded by EPA's approval of the State's Title V operating permit program.

EPA's full approval of Title V programs for Connecticut, Maine, Massachusetts and New Hampshire became effective on May 31, 2002 (CT), December 17, 2001 (ME), November 27, 2001 (MA), and November 23, 2001 (NH). Before EPA can grant full approval, a state must demonstrate the ability to collect adequate fees. Each of the four states' title V programs included a demonstration that the state will collect a fee from title V sources above the presumptive minimum in accordance with 40 CFR 70.9(b)(2)(i). The states collect sufficient fees to administer their title V permit programs. Therefore, Connecticut, Maine, Massachusetts and New Hampshire all meet the requirements for section 110(a)(2)(L) for the 1997 and 2006 $PM_{2.5}$ standards.

M. Consultation/Participation by Affected Local Entities

Section 110(a)(2)(M) of the CAA requires states to provide for consultation and participation in SIP

development by local political subdivisions affected by the SIP.

EPA reviewed the laws and regulations that been approved into the Connecticut, Maine, Massachusetts, and New Hampshire SIPs, and proposes to find that all four states' 110(a) submittals for the 1997 and 2006 $PM_{2.5}$ standards meet the requirements for section 110(a)(2)(M).

IV. Proposed Action

EPA is proposing to approve the submittals from all four states as fully meeting the infrastructure requirements for the 1997 and 2006 $PM_{2.5}$ standards for the following 110(a)(2) elements and sub-elements: (B), (C) (enforcement program), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation), (J) (public notification), (K), (L), and (M).

EPA also is proposing to approve the submittals from Maine and New Hampshire as fully meeting the infrastructure requirements for the 1997 and 2006 $PM_{2.5}$ standards for the two prongs of section 110(a)(2)(D)(i)(I). These two prongs are (1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (2) interfere with maintenance by any other state with respect to the same NAAQS. In addition, EPA is proposing to approve the submittals from Maine for the prong of section 110(a)(2)(D)(i)(II) related to interference with visibility protection, and the submittals from New Hampshire for 110(a)(2)(D)(ii) related to interstate and international pollution abatement.

EPA is proposing to conditionally approve the submittals from all four states for the following 110(a)(2) elements and sub-elements: (A) and E(ii) (state boards and conflict of interest provisions). We are proposing to conditionally approve the submittals from three states (Connecticut, Maine, and New Hampshire) for section 110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the states' PSD programs. We are also proposing to conditionally approve the submittals from Connecticut and Maine for 110(a)(2)(D)(ii).

For Massachusetts, EPA is proposing to disapprove the state's submittals for section 110(a)(2) sub-elements (C), prong 3 of (D)(i), and (J) as they relate to the state's PSD program, as well as (D)(ii), which relates to interstate and international pollution abatement. However, this disapproval will not trigger any sanctions or additional FIP obligation.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**, or by submitting comments electronically, by mail, or through hand delivery/courier following the directions in the **ADDRESSES** section of this **Federal Register**.

Under section 110(k)(4) of the Act, EPA may conditionally approve a plan based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If EPA conditionally approves the commitment in a final rulemaking action, the State must meet its commitment to complete requirements of each section 110(a)(2) element listed above. If Connecticut, Maine, Massachusetts or New Hampshire fails to do so for any section 110(a)(2) element, our conditional approval of that element will, by operation of law, become a disapproval for the applicable State or States one year from the date of final approval. EPA will notify the State or States by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved SIP for the applicable State or States. EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval automatically converted to a disapproval. If Connecticut, Maine, Massachusetts and/or New Hampshire meet their commitments within the applicable time frame, the conditionally approved submission will remain a part of the SIP or SIPs until EPA takes final action approving or disapproving the element in question. If EPA disapproves a State's new submittal, the conditionally approved section 110(a)(2) element will also be disapproved at that time. If EPA approves the submittal, the section 110(a)(2) element will be fully approved in its entirety and replace the conditionally approved 110(a)(2) element in the SIP. Finally, if, based on information received before EPA takes final action on this proposal, EPA determines that it cannot issue a final conditional approval for one or more elements for which EPA has proposed a conditional approval, then EPA will instead issue a disapproval for such elements.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this 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 proposed action:

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide,

Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 16, 2012.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 2012–17902 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0081; FRL–9702–8]

Approval and Promulgation of Implementation Plans; Mississippi: New Source Review-Prevention of Significant Deterioration; Fine Particulate Matter ($PM_{2.5}$)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Mississippi State Implementation Plan (SIP), submitted by the Mississippi Department of Environmental Quality (MDEQ) through the Division of Air Pollution Control to EPA on May 12, 2011. The SIP revision modifies Mississippi's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program. The May 12, 2011, SIP revision incorporates by reference the federal NSR PSD requirements for the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) as amended in EPA's 2008 NSR $PM_{2.5}$ Implementation Rule (hereafter referred to as the ''NSR $PM_{2.5}$ Rule'') and the 2010 $PM_{2.5}$ PSD Increment, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) Rule (hereafter referred to the ''$PM_{2.5}$ PSD Increment-SILs-SMC Rule'') into the Mississippi SIP. EPA is proposing to approve portions of Mississippi's SIP revision because the Agency has preliminarily determined that the provisions proposed for approval are consistent with section 110 of the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

DATES: Comments must be received on or before August 22, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0081 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–2012–0081, 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 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2012–0081.'' 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: For information regarding the Mississippi SIP, contact Ms. Twunjala Bradley, 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. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9241; email address: *adams.yolanda@epa.gov.* For information regarding the $PM_{2.5}$ NAAQS, contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Mr. Huey's telephone number is (404) 562–9104; email address: *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What action is EPA proposing?

On May 12, 2011, MDEQ submitted a SIP revision to EPA for approval into the Mississippi SIP to incorporate by

reference (IBR) [1] federal NSR PSD permitting requirements. Mississippi's SIP revision makes changes to its Air Quality Regulations in Air Pollution Control, Section 5 (APC–S–5)—*Regulations for the Prevention of Significant Deterioration of Air Quality* These rule changes were provided to comply with federal NSR permitting provisions related to the implementation of the $PM_{2.5}$ NAAQS for the PSD program as promulgated in the NSR $PM_{2.5}$ Rule entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$), '' Final Rule, 73 FR 28321 (May 16, 2008) and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels SILs and Significant Monitoring Concentration (SMC),'' Final Rule,'' 75 FR 64864, (October 20, 2010). Additionally, Mississippi's SIP revision requests that EPA remove from the SIP the exclusion language at APC–S–5 (2.7) regarding the NSR $PM_{2.5}$ Rule provisions. Pursuant to section 110 of the CAA, EPA is proposing to approve these changes, with the exception of the two elements discussed below, into the Mississippi SIP.

The two elements of MDEQ's May 12, 2011, SIP revision which EPA is not proposing to approve in this action are: (1) incorporation of the SIL thresholds promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule, 75 FR 64864 (October 20, 2010); and (2) incorporation of the provision regarding the applicability of the term ''particulate matter emissions'' when accounting for condensable particles in applicability determinations and in establishing emissions limitations in PSD permits. More details are provided in Sections II–IV below.

II. What is the background for EPA's proposed action?

Today's proposed action to revise the Mississippi SIP relates to relates to EPA's NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule. In the NSR $PM_{2.5}$ Rule, EPA finalized regulations to implement the NSR program for the $PM_{2.5}$ NAAQS. As a result of EPA's final NSR $PM_{2.5}$ Rule, states were required to submit SIP revisions to EPA no later than May 16, 2011, to address these requirements for both the PSD and Nonattainment NSR (NNSR) programs. EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule established PSD increments, SILs and SMC which address additional components for making PSD permitting determinations for $PM_{2.5}$ NAAQS. These requirements address air quality modeling and monitoring provisions for fine particle pollution in areas protected by the PSD program (that is attainment or unclassifiable/attainment areas for the NAAQS). EPA's October 20, 2010, final rulemaking that approved the $PM_{2.5}$ PSD Increment-SILs-SMC Rule required states to submit SIP revisions to adopt the required PSD increments by July 20, 2012. Together these two rules address the NSR permitting requirements needed to implement the $PM_{2.5}$ NAAQS. Mississippi's May 12, 2011, SIP revision IBR into the Mississippi SIP (at APC–S–5), the PSD requirements promulgated in these two rules to be consistent with federal regulations for the $PM_{2.5}$ NAAQS. More detail on the NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule can be found in EPA's May 16, 2008, and October 20, 2010, final rules respectively and are summarized below.

A. Fine Particulate Matter and the NAAQS

Fine particles in the atmosphere are made up of a complex mixture of components. Common constituents include sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. ''Primary'' particles are emitted directly into the air as a solid or liquid particle (e.g., elemental carbon from diesel engines or fire activities, or condensable organic particles from gasoline engines). ''Secondary'' particles (e.g., sulfate and nitrate) form in the atmosphere as a result of various chemical reactions.

The health effects associated with exposure to $PM_{2.5}$ include potential aggravation of respiratory and cardiovascular disease (i.e., lung disease, decreased lung function asthma attacks and certain cardiovascular issues). Epidemiological studies have indicated a correlation between elevated $PM_{2.5}$ levels and premature mortality. Groups considered especially sensitive to $PM_{2.5}$ exposure include older adults, children, and individuals with heart and lung diseases. For more details regarding health effects and $PM_{2.5}$ see EPA's Web site at *http://www.epa.gov/oar/particlepollution/* (See heading ''Health and Welfare'').

On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$. *See* 62 FR 38652. At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5,}$ such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary 24-hour NAAQS for $PM_{2.5}$ to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$. *See* 71 FR 61236.

B. What is the NSR program?

The CAA NSR program is a preconstruction review and permitting program applicable to certain new and modified stationary sources of air pollutants regulated under the CAA. The program includes a combination of air quality planning and air pollution control technology requirements. The CAA NSR program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS (''attainment areas'') as well as areas where there is insufficient information to determine if the area meets the NAAQS (''unclassifiable areas''). The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS (''nonattainment areas''). The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR program. EPA regulations governing the implementation of these programs are contained in 40 CFR sections 51.160–.166; 52.21, .24; and, part 51, appendix S. Section 109 of the CAA requires EPA to promulgate a primary NAAQS to protect public

[1] Throughout this document IBR means incorporate or incorporates by reference.

health and a secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit a SIP to EPA for approval that includes emission limitations and other control measures to attain and maintain the NAAQS. *See* CAA section 110. Each SIP is also required to include a preconstruction review program for the construction and modification of any stationary source of air pollution to assure the maintenance of the NAAQS. The applicability of the PSD program to a major stationary source must be determined in advance of construction and is a pollutant-specific determination. Once a major source is determined to be subject to the PSD program (and thus is a ''PSD source''), among other requirements, it must undertake a series of analyses to demonstrate that it will use the best available control technology and will not cause or contribute to a violation of any NAAQS or increment. Mississippi's May 12, 2011, SIP submittal revises Mississippi's PSD program.

III. What are the NSR implementation requirements for the $PM_{2.5}$ NAAQS?

A. NSR $PM_{2.5}$ Rule

On May 16, 2008, EPA finalized the NSR $PM_{2.5}$ Rule to implement the $PM_{2.5}$ NAAQS, including changes to the NSR program.[2] *See* 73 FR 28321. The NSR $PM_{2.5}$ Rule revised the federal NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas. Specifically, the NSR $PM_{2.5}$ Rule established NSR requirements to implement the $PM_{2.5}$ NAAQS that: (1) Require NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) establish significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and nitrogen oxides (NO_X)); (3) establish $PM_{2.5}$ emission offsets; (4) provide exceptions to the PM_{10} grandfathering policy; and, (5) require states to account for gases that condense to form particles (condensables) in $PM_{2.5}$ and PM_{10} emission limits in PSD or NNSR permits. Additionally, the NSR $PM_{2.5}$ Rule authorized states to adopt provisions in their nonattainment NSR rules that would allow interpollutant offset trading. Mississippi's May 12, 2011, SIP revision addresses the PSD permitting requirements promulgated in EPA's May 16, 2008, NSR $PM_{2.5}$ Rule.[3] A few key issues described in greater detail below include: the PM_{10} surrogate and grandfathering policy, the condensable provision and the NO_X precursor insignificance demonstration.

1. PM_{10} Surrogate and Grandfathering Policy

After EPA promulgated the NAAQS for $PM_{2.5}$ in 1997 (62 FR 38652, July 18, 1997), the Agency issued a guidance document entitled ''Interim Implementation of New Source Review Requirements for $PM_{2.5}$.'' John S. Seitz, EPA, October 23, 1997 (the ''Seitz memo''). The Seitz memo was designed to help states implement NSR requirements pertaining to the new $PM_{2.5}$ NAAQS in light of technical difficulties posed by $PM_{2.5}$ at that time. Specifically, the Seitz memo stated: ''PM–10 may properly be used as a surrogate for PM–2.5 in meeting NSR requirements until these difficulties are resolved.'' EPA also issued a guidance document entitled ''Implementation of New Source Review Requirements in PM–2.5 Nonattainment Areas'' (the ''2005 $PM_{2.5}$ NNSR Guidance''), on April 5, 2005, the date that EPA's $PM_{2.5}$ nonattainment area designations became effective for the 1997 NAAQS. The 2005 $PM_{2.5}$ NNSR Guidance provided direction regarding implementation of the nonattainment major NSR provisions in $PM_{2.5}$ nonattainment areas in the interim period between the effective date of the $PM_{2.5}$ nonattainment area designations (April 5, 2005) and EPA's promulgation of final $PM_{2.5}$ NNSR regulations. Besides re-affirming the continuation of the PM_{10} Surrogate Policy for $PM_{2.5}$ attainment areas set forth in the Seitz memo, the 2005 $PM_{2.5}$ NNSR Guidance recommended that until EPA promulgated the $PM_{2.5}$ major NSR regulations, ''States should use a PM_{10} nonattainment major NSR program as a surrogate to address the requirements of nonattainment major NSR for the $PM_{2.5}$ NAAQS.''

In the NSR $PM_{2.5}$ Rule, EPA required that major stationary sources seeking permits must begin directly satisfying the $PM_{2.5}$ requirements, as of the effective date of the rule, rather than relying on PM_{10} as a surrogate, with two exceptions. The first exception is the ''grandfathering'' provision in the federal PSD program at 40 CFR 52.21(i)(1)(xi). This grandfathering provision applied to sources that had applied for, but had not yet received, a final and effective PSD permit before the July 15, 2008, effective date of the May 16, 2008, final rule. The second exception was that states with SIP-approved PSD programs could continue to implement the Seitz Memo's PM_{10} Surrogate Policy for up to three years (until May 2011) or until EPA approved the individual revised state PSD programs for $PM_{2.5}$, whichever came first. *See* 73 FR 28321.[4]

On February 11, 2010, EPA proposed to repeal the grandfathering provision for $PM_{2.5}$ contained in the federal PSD program at 40 CFR 52.21(i)(1)(xi) and to end early the PM_{10} Surrogate Policy applicable in states that have a SIP-approved PSD program. *See* 75 FR 6827. In support of this proposal, EPA explained that the $PM_{2.5}$ implementation issues that led to the adoption of the PM_{10} Surrogate Policy in 1997 have been largely resolved to a degree sufficient for sources and permitting authorities to conduct meaningful permit-related $PM_{2.5}$ analyses.

On May 18, 2011 (76 FR 28646), EPA took final action to repeal the $PM_{2.5}$ grandfathering provision at 40 CFR 52.21(i)(1)(xi). This final action ended the use of the 1997 PM_{10} Surrogate Policy for PSD permits under the federal PSD program at 40 CFR 52.21. In effect, any PSD permit applicant previously covered by the grandfathering provision (for sources that completed and submitted a permit application before July 15, 2008)[5] that did not have a final and effective PSD permit before the effective date of the repeal would no longer be able to rely on the 1997 PM_{10} Surrogate Policy to satisfy the PSD requirements for $PM_{2.5}$ unless the application included a valid surrogacy demonstration. *See* 76 FR 28646. Mississippi's May 12, 2011, SIP revision, did not IBR the grandfathering provision at 40 CFR 52.21(i)(1)(xi), in accordance with the repeal of the $PM_{2.5}$ grandfathering provision.

2. ''Condensable'' Provision

In the NSR $PM_{2.5}$ Rule, EPA revised the definition of ''regulated NSR

[2] On November 1, 2005, EPA proposed a rule to implement the 1997 $PM_{2.5}$ NAAQS, including proposed revisions to the NSR program. *See* 70 FR 65984.

[3] Mississippi's May 12, 2011, SIP revision only addresses the State's PSD permitting program and does not adopt the NNSR permitting requirements for $PM_{2.5}$ emission offsets, condensable provision or the discretionary interpollutant trading policy and ratios promulgated in the 2008 NSR $PM_{2.5}$ Rule. Moreover Mississippi is attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

[4] Additional information on this issue can also be found in an August 12, 2009, final order on a title V petition describing the use of PM_{10} as a surrogate for $PM_{2.5}$. In the Matter of *Louisville Gas & Electric Company,* Petition No. IV–2008–3, Order on Petition (August 12, 2009).

[5] Sources that applied for a PSD permit under the federal PSD program on or after July 15, 2008, are already excluded from using the 1997 PM_{10} Surrogate Policy as a means of satisfying the PSD requirements for $PM_{2.5}$. *See* 76 FR 28321.

pollutant'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions'' shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures and that on or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits. *See* 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and ''Emissions Offset Interpretative Ruling'' (40 CFR part 51, appendix S). A similar paragraph added to the NNSR rule does not include ''particulate matter (PM) emissions.'' *See* 40 CFR 51.165(a)(1)(xxxvii)(D).

On March 16, 2012, EPA proposed a rulemaking to amend the definition of ''regulated NSR pollutant'' promulgated in the 2008 NSR $PM_{2.5}$ Rule regarding the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and EPA's Emissions Offset Interpretative Ruling. *See* 77 FR 15656. The rulemaking proposes to remove the inadvertent requirement in the NSR $PM_{2.5}$ Rule that the measurement of condensable ''particulate matter emissions'' be included as part of the measurement and regulation of ''particulate matter emissions.'' The term ''particulate matter emissions'' includes particles that are larger than $PM_{2.5}$ and PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS) (40 CFR part 60).[6] Mississippi's May 12, 2011, SIP revision IBR EPA's definition for regulated NSR pollutant for condensables (at APC–S–5) including the term ''particulate matter emissions,'' as promulgated in the NSR $PM_{2.5}$ Rule. EPA's review of Mississippi's May 12, 2011, SIP revision with regard to the NSR $PM_{2.5}$ Rule condensable provision is provided below in Section IV.

3. NO_X Insignificance Determination

Fine particles can be emitted directly from a facility or formed secondarily in the atmosphere from emissions of other compounds referred to as precursors. In addition to direct $PM_{2.5}$ emissions, pollutants that can contribute to ambient $PM_{2.5}$ concentrations (known as ''precursors'') include SO_2, NO_X, volatile organic compounds (VOC) and ammonia (of which all undergo chemical reactions to form secondary PM). In most areas of the country, $PM_{2.5}$ precursor emissions are major contributors to ambient $PM_{2.5}$ concentrations. The relative contribution to ambient $PM_{2.5}$ concentrations from each of these pollutants varies by area. The relative effect of reducing emissions of these pollutants is also highly variable. In the NSR $PM_{2.5}$ Rule, EPA established various approaches for addressing the individual precursors to $PM_{2.5}$ under the CAA's NSR provisions. *See* 73 FR 28321.

Based on scientific factors suggesting that nitrate concentrations vary significantly across the country, EPA established a ''presumed-in'' approach for NO_X as a $PM_{2.5}$ precursor. This approach is warranted based on the well-known transformation of NO_X into nitrates, coupled with the fact that nitrate concentrations vary significantly around the country. The final NSR $PM_{2.5}$ Rule requires that states treat NO_X as a $PM_{2.5}$ precursor in all areas unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of NO_X from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.[7] *See* 40 CFR 51.166(b)(49)(i), 51.165(a)(1)(xxxvii) and 52.21(b)(50(i). If EPA makes such a demonstration, or a state makes such a demonstration and it is approved by EPA, NO_X would not be considered a $PM_{2.5}$ precursor under the NSR program in that area. If a State or EPA does not make such a demonstration, NO_X must be regulated as a precursor under the PSD, NNSR, and minor source programs for $PM_{2.5}$.

Mississippi's May 12, 2011, SIP revision IBR the provision that NO_X is presumed to be a precursor for $PM_{2.5}$. However, MDEQ also submitted to EPA a NO_X insignificance demonstration to show that NO_X emissions in the state of Mississippi are not contributing to ambient $PM_{2.5}$ concentrations in the state. At this time, EPA is still considering Mississippi's NO_X insignificance demonstration and will take action on this portion of the May 12, 2011, SIP revision in a separate rulemaking. However, until EPA takes action on Mississippi's insignificance demonstration, EPA is proposing to approve Mississippi's incorporation into its SIP the federal regulatory provision providing that NO_X is a presumed $PM_{2.5}$ precursor.

B. $PM_{2.5}$ PSD Increment-SILs-SMC Rule

As mentioned above, EPA finalized the $PM_{2.5}$ PSD Increment-SILs-SMC Rule to provide additional regulatory requirements under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR.[8] Specifically, the rule establishes the following to implement the $PM_{2.5}$ NAAQS for the PSD program: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5}$. As part of the response to comments on October 20, 2010 final rulemaking, EPA explained that, the agency agrees that the SILs and SMCs used as *de minimis* thresholds for the various pollutants are useful tools that enable permitting authorities and PSD applicants to screen out ''insignificant'' activities; however, the fact remains that these values are not required by the Act as part of an approvable SIP program. EPA believes that most states are likely to adopt the SILs and SMCs because of the useful purpose they serve regardless of our position that the values are not mandatory. Alternatively, states may develop more stringent values if they desire to do so. In any case, states are not under any SIP-related deadline for revising their PSD programs to add these screening tools. *See* 75 FR 64864, 64900.

Mississippi's May 12, 2011, SIP revision IBR the NSR changes promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule to be consistent with the federal NSR regulations and to appropriately implement the State's NSR program for the $PM_{2.5}$ NAAQS. More detail on the $PM_{2.5}$ PSD Increment-SILs-SMC Rule can be found in EPA's October 20, 2010, final rule and is summarized below. *See* 75 FR 64864. EPA is not proposing to take action to approve the SILs (promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule) into the Mississippi SIP in this rulemaking. EPA's authority to implement the SILs

[6] In addition to the NSPS for PM, states have regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

[7] The NSR $PM_{2.5}$ Rule presumes that VOC and ammonia are not precursors to $PM_{2.5}$ unless a state or EPA demonstrates that these pollutants are significantly contributing to the ambient $PM_{2.5}$ concentrations in a specific area. The rule requires that SO_2 be treated as a precursor to $PM_{2.5}$ in all areas.

[8] EPA proposed approval of the PSD Increments-SILs-SMC Rule on September 21, 2007. *See* 72 FR 54112.

and SMC for PSD purposes has been challenged by the Sierra Club. *Sierra Club* v. *EPA,* Case No 10–1413 (D.C. Circuit Court).[9] More details regarding Mississippi's changes to its NSR regulations are also summarized below in Section IV.

1. What are PSD increments?

As established in part C of title I of the CAA, EPA's PSD program protects public health from adverse effects of air pollution by ensuring that construction of new or modified sources in attainment or unclassifiable areas does not lead to significant deterioration of air quality while simultaneously ensuring that economic growth will occur in a manner consistent with preservation of clean air resources. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' In other words, when a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration[10] for that pollutant. PSD increments prevent air quality in clean areas from deteriorating to the level set by the NAAQS. Therefore an increment is the mechanism used to estimate ''significant deterioration'' of air quality for a pollutant in an area.

For PSD baseline purposes, a baseline area for a particular pollutant emitted from a source includes the attainment or unclassifiable area in which the source is located as well as any other attainment or unclassifiable area in which the source's emissions of that pollutant are projected (by air quality modeling) to result in an ambient pollutant increase of at least 1 $\mu g/m^3$ (annual average). *See* 40 CFR 52.21(b)(15)(i). Under EPA's existing regulations, the establishment of a baseline area for any PSD increment results from the submission of the first complete PSD permit application and is based on the location of the proposed source and its emissions impact on the area. Once the baseline area is established, subsequent PSD sources locating in that area need to consider that a portion of the available increment may have already been consumed by previous emissions increases. In general, the submittal date of the first complete PSD permit application in a particular area is the operative ''baseline date.''[11] On or before the date of the first complete PSD application, emissions generally are considered to be part of the baseline concentration, except for certain emissions from major stationary sources. Most emissions increases that occur after the baseline date will be counted toward the amount of increment consumed. Similarly, emissions decreases after the baseline date restore or expand the amount of increment that is available. *See* 75 FR 64864. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical increments for $PM_{2.5}$ as a new pollutant[12] for which NAAQS were established after August 7, 1977,[13] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64864 at 64869 and table at 40 CFR 51.166(c)(1).

In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''major source baseline date'' and ''minor source baseline date'' (including trigger dates) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864. In accordance with section 166(b) of the CAA, EPA required the states to submit revised implementation plans to EPA for approval (to adopt the $PM_{2.5}$ PSD increments) within 21 months from promulgation of the final rule (by July 20, 2012). Each state was responsible for determining how increment consumption and the setting of the minor source baseline date for $PM_{2.5}$ would occur under its own PSD program. Regardless of when a State begins to require $PM_{2.5}$ increment analysis and how it chooses to set the $PM_{2.5}$ minor source baseline date, the emissions from sources subject to PSD for $PM_{2.5}$ for which construction commenced after October 20, 2010 (major source baseline date) consume $PM_{2.5}$ increment and should be included in the increment analyses occurring after the minor source baseline date is established for an area under the state's revised PSD program. As discussed in detail in Section IV, Mississippi's May 12, 2011, SIP revision IBR the $PM_{2.5}$ increment permitting requirements promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule.

2. What are significant monitoring concentrations?

Under the CAA and EPA regulations, an applicant for a PSD permit is required to gather preconstruction monitoring data in certain circumstances. Section 165(a)(7) calls for ''such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any areas which may be affected by emissions from such source.'' In addition, section 165(e) requires an analysis of the air quality in areas affected by a proposed major facility or major modification and calls for gathering one year of monitoring data unless the reviewing authority determines that a complete and adequate analysis may be accomplished in a shorter period. These requirements are codified in EPA's PSD regulations at 40 CFR 51.166(m) and 40 CFR 52.21(m). In accordance with EPA's Guideline for Air Quality Modeling (40 CFR part 51, appendix W), the preconstruction monitoring data is primarily used to determine background concentrations in modeling conducted to demonstrate that the proposed source or modification will not cause or contribute to a violation of the NAAQS. *See* 40 CFR part 51, appendix W, section 9.2. SMC are numerical values that represent thresholds of insignificant (i.e., *de minimis*[14]), monitored (ambient)

[9] On April 6, 2012, EPA filed a brief with the D.C. Circuit court defending the Agency's authority to implement SILs and SMC for PSD purposes.

[10] Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

[11] Baseline dates are pollutant specific. That is, a complete PSD application establishes the baseline date only for those regulated NSR pollutants that are projected to be emitted in significant amounts (as defined in the regulations) by the applicant's new source or modification. Thus, an area may have different baseline dates for different pollutants.

[12] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQs with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2012).

[13] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

[14] The *de minimis* principle is grounded in the decision described by the court case *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 360 (D.C. Cir. 1980). In this case reviewing EPA's 1978 PSD

impacts on pollutant concentrations. In EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule, EPA established a SMC of 4 $\mu g/m^3$ for $PM_{2.5}$ to be used as a screening tool by a major source subject to PSD to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5.}$ *See* 75 FR 64864.

Using the SMC as a screening tool, sources may be able to demonstrate that the modeled air quality impact of emissions from the new source or modification, or the existing air quality level in the area where the source would construct, is less than the SMC (i.e., *de minimis*), and as such, may be allowed to forego the preconstruction monitoring requirement for a particular pollutant at the discretion of the reviewing authority. *See* 40 CFR 51.166(i)(5) and 52.21(i)(5). SMCs are not minimum required elements of an approvable SIP under the CAA. This *de minimis* value is widely considered to be a useful component for implementing the PSD program, but is not absolutely necessary for the states to implement PSD programs. States can satisfy the statutory requirements for a PSD program by requiring each PSD applicant to submit air quality monitoring data for $PM_{2.5}$ without using *de minimis* thresholds to exempt certain sources from such requirements. *See* 75 FR 64864. The SMC became effective under the federal PSD program on December 20, 2010. States with EPA-approved PSD programs that adopt the SMC for $PM_{2.5,}$ however, may use the SMC, once it is part of an approved SIP, to determine when it may be appropriate to exempt a particular major stationary source or major modification from the monitoring requirements under its state PSD program. Mississippi's May 12, 2011, revision IBR the SMC provision into the Mississippi SIP.

Recently, the Sierra Club filed suit challenging EPA's authority to implement the $PM_{2.5}$ SILs [15] as well as the SMC for PSD purposes as promulgated in the October 20, 2012, rule. *Sierra Club* v. *EPA,* Case No 10–1413, D.C. Circuit Court. Specifically regarding the SMC, Sierra Club claims that the use of SMCs to exempt a source from submitting a year's worth of monitoring data is inconsistent with the CAA. EPA responded to Sierra Club's claims in a Brief dated April 6, 2012, which describes the Agency's authority to develop and promulgate SMC.[16] A copy of EPA's April 6, 2010 Brief can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0081.

IV. What is EPA's analysis of Mississippi's SIP revision?

Mississippi currently has a SIP-approved NSR program for new and modified stationary sources. MDEQ's PSD preconstruction rules are found at rule APC–S–5—*Regulation for the Prevention of Significant Deterioration of Air Quality* and apply to major stationary sources or modifications constructed in areas designated attainment or unclassifiable/attainment as required under part C of title I the CAA with respect to the NAAQS. Mississippi's regulation APC–S–5 IBR the federal NSR PSD regulations at 40 CFR 51.166 and 52.21 into the Mississippi SIP. In effect, MDEQ's May 12, 2011, SIP revision updates the State's IBR date for APC–S–5 to March 22, 2011, to include PSD permitting regulations promulgated in the NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule into the Mississippi SIP. These changes to Mississippi's regulation APC–S–5 became state effective on June 2, 2011. EPA is proposing to approve changes to Mississippi's rules at APC–S–5 to update the State's existing SIP-approved PSD program to be consistent with federal NSR regulations, (at 40 CFR 51.166 and 52.21) and the CAA.

A. NSR $PM_{2.5}$ Implementation Rule

Mississippi's May 12, 2011, SIP revision establishes that the State's existing NSR permitting program requirements for PSD apply to the $PM_{2.5}$ NAAQS and its precursors. Specifically, the SIP revision IBR the following NSR $PM_{2.5}$ Rule provisions into the Mississippi SIP at regulation APC–S–5: (1) The requirement for NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) significant emission rates for direct $PM_{2.5}$ and precursor pollutants (SO_2 and NO_X); and (3) the requirement that condensable PM be addressed in enforceable PM_{10} and $PM_{2.5}$ emission limits included in PSD permits.

As mentioned above, Mississippi's May 12, 2011, SIP revision IBR into the State's PSD program at APC–S–5 the requirement to address condensable PM in applicability determinations and in establishing enforceable emission limits in PSD and NNSR permits, as established in the NSR $PM_{2.5}$ Rule. As discussed in Section III.A.2, under a separate action, EPA has proposed to correct the inadvertent inclusion of ''particulate matter emissions'' in the definition of ''regulated NSR pollutant'' as an indicator for which condensable emissions must be addressed. *See* 77 FR 75656 (March 16, 2012). Further, on June 26, 2012, the State of Mississippi provided a letter to EPA with clarification of the State's intent in light of EPA's March 12, 2012, proposed rulemaking. A copy of this letter can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0081. Specifically, Mississippi requested that EPA not approve the term ''particulate matter emissions'' (at APC–S–5) as part of the definition for ''regulated NSR pollutant'' regarding the inclusion of condensable emissions in applicability determinations and in establishing emissions limitations for PM. Therefore, given the State's request and EPA's intention to amend the definition of ''regulated NSR pollutant,'' EPA is not proposing action to approve the terminology ''particulate matter emissions'' into the Mississippi SIP for the condensable provision in the definition of ''regulated NSR pollutant.'' EPA is, however, proposing to approve into the Mississippi SIP at APC–S–5 the remaining condensable requirement at 40 CFR 51.166(b)(49)(vi), which requires that condensable emissions be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and $PM_{10.}$ Regarding the grandfathering provision, MDEQ's May 12, 2012 SIP revision included new language at APC–S–5(2.7) that excluded the provision for $PM_{2.5}$ (at 40 CFR 52.21(i)(1)(xi)) from the PSD program regulations in accordance with the repeal of the $PM_{2.5}$ grandfathering provision.

EPA's NSR $PM_{2.5}$ Rule identifies NO_X as a presumed $PM_{2.5}$ precursor in all attainment and unclassifiable areas unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of NO_X from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations. Mississippi's May 12, 2011, SIP submittal included a technical

regulations, the court recognized that ''there is likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' 636 F.2d at 360.

[15] As mentioned earlier, due to litigation by the Sierra Club, EPA is not proposing to take action on the SILs portion of the Mississippi May 12, 2011 SIP revision at this time but will take action once the court case regarding SILs implementation is resolved.

[16] Additional information on this issue can also be found in an April 25, 2010 comment letter from EPA Region 6 to the Louisiana Department of Environmental Quality regarding the SILs-SMC litigation. A copy of this letter can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0081.

demonstration proposing that NO_X sources in Mississippi do not significantly contribute to $PM_{2.5}$ ambient air concentrations in the state. As stated in Mississippi's May 12, 2011, SIP revision, NO_X will be considered as a precursor to $PM_{2.5}$ in Mississippi until such time as EPA takes action on the state's technical NO_X insignificance demonstration or upon plan disapproval. Currently, EPA is considering Mississippi's NO_X insignificance demonstration and will take action on this portion of the May 12, 2011, SIP submission in a separate rulemaking. Therefore, as part of MDEQ's May 12, 2011, revision to IBR the federal regulations at 40 CFR 51.166 and 52.21, EPA is proposing at this time to approve into the Mississippi SIP that NO_X is a presumed $PM_{2.5}$ precursor. Lastly, Mississippi's May 12, 2011, SIP revision also requests that EPA remove from the SIP the exclusion language at APC–S–5(2.7) regarding the NSR $PM_{2.5}$ Rule provisions. In Mississippi's December 9, 2010 Greenhouse Gas Tailoring Rule final SIP revision, MDEQ added specific language at APC–S–5(2.7) excluding from the IBR of 40 CFR 52.21 the PSD NSR $PM_{2.5}$ Rule provisions promulgated in the May 16, 2008 rule and stated they would submit a separate rulemaking to address those PSD requirements. Mississippi's May 12, 2011, SIP submittal, the subject of today's proposed rulemaking, addresses the PSD NSR $PM_{2.5}$ Rule provisions that were excluded at APC–S–5(2.7). Therefore the exclusion language for the NSR $PM_{2.5}$ Rule provisions at APC–S–5(2.7) is no longer necessary and EPA is today proposing to remove it from the Mississippi SIP. EPA is proposing to approve the NSR $PM_{2.5}$ requirements mentioned above into the Mississippi SIP because EPA has made the preliminary determination that this change is consistent with federal regulations promulgated in the NSR $PM_{2.5}$ Rule and section 110 of the CAA.

B. $PM_{2.5}$ PSD Increment-SILs-SMC Rule

MDEQ's May 12, 2011, SIP revision IBR the following provisions into the Mississippi SIP at regulation APC–S–5 as promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule: (1) PSD increments for $PM_{2.5}$ annual and 24-hour NAAQS pursuant to section 166(a) of the CAA; (2) SILs used as a screening tool (used by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) SMC also used as a screening tool to determine the level of data gathering required of a major source in support of its PSD permit application for $PM_{2.5}$ emissions.

Specifically, Mississippi's May 12, 2011, SIP revision IBR into the Mississippi SIP (at APC–S–5) the $PM_{2.5}$ PSD increments (established in the tables at 40 CFR 51.166(c)(1) and (p)(4); the amendments to the ''major source baseline date'' (at 40 CFR 51.166(b)(14)(i)(c)) and 52.21(b)(14)(i)(c)); the ''minor source baseline date'' and establishment of the ''trigger date'' (40 CFR 51.166(b)(14)(ii)(c) and 52.21(b)(14)(ii)(c)); and the definition of ''baseline area'' (at 40 CFR 51.166(b)(15)(i) and (ii) and 52.21(b)(15)(i) and (ii)). These changes, which are associated with the implementation or consumption of the PSD increments for the $PM_{2.5}$ NAAQS, are needed to implement the state's NSR program for the $PM_{2.5}$ NAAQS consistent with the federal NSR regulations. Also, Mississippi's SIP revision adds the SMC of 4 $\mu g/m^3$ for $PM_{2.5}$ NAAQS to the existing monitoring exemption at 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c). In today's action, EPA is proposing to approve Mississippi's May 12, 2011, SIP revision to address $PM_{2.5}$ PSD increments.

Regarding the SILs and SMC established in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the Sierra Club has challenged EPA's authority to implement SILs and SMC. In a brief filed in the D.C. Circuit on April 6, 2012, EPA described the Agency's authority under the CAA to promulgate and implement the SMCs and SILs *de minimis* thresholds. With respect to the SMCs submitted by Mississippi in the May 12, 2011, SIP revision, EPA is proposing to approve these promulgated thresholds into the Mississippi SIP as EPA believes the SMC are a valid exercise of the Agency's *de minimis* authority. Furthermore Mississippi's May 12, 2011, SIP revision is consistent with EPA's current promulgated provisions in the October 20, 2011, rule. However, EPA notes that future Court action may require subsequent rule revisions and SIP revisions from Mississippi.

The May 12, 2012, SIP revision submitted by Mississippi to IBR the new PSD requirements for $PM_{2.5}$ pursuant to the $PM_{2.5}$ PSD Increment-SILs-SMC Rule also includes the new regulatory text at 40 CFR 51.166(k)(2) and 52.21(k)(2), concerning the implementation of SILs for $PM_{2.5}$. EPA stated in the preamble to the October 20, 2010 final rule that we do not consider the SILs to be a mandatory SIP element, but regard them as discretionary on the part of regulating authority for use in the PSD permitting process. Nevertheless, the $PM_{2.5}$ SILs are currently the subject of litigation before the U.S. Court of Appeals. (*Sierra Club* v. *EPA,* Case No 10–1413 D.C. Circuit). In response to that litigation, EPA has requested that the Court remand and vacate the regulatory text in EPA's PSD regulations at paragraph (k)(2) so that EPA can make necessary rulemaking revisions to that text. In light of EPA's request for remand and vacatur and our acknowledgement of the need to revise the regulatory text presently contained at paragraph (k)(2) of sections 51.166 and 52.21, we do not believe that it is appropriate at this time to approve that portion of the State's SIP revision that contains the affected regulatory text in the State's PSD regulations, at APC–S–5. Instead, we are taking no action at this time with regard to that specific provision contained in the SIP revision. EPA will take action on the SILs portion of Mississippi's May 12, 2011, SIP revision in a separate rulemaking once the issue regarding the court case has been resolved.

The aforementioned amendments to Mississippi's SIP provide the framework for implementation of $PM_{2.5}$ NAAQS in the states NSR permitting. Based on review and consideration of Mississippi's May 12, 2011, SIP revision, EPA has made the preliminary determination to approve the aforementioned PSD permitting provisions promulgated in the NSR $PM_{2.5}$ Rule and $PM_{2.5}$ PSD Increment-SILs-SMC Rule into the Mississippi SIP to implement the NSR program for the $PM_{2.5}$ NAAQS.

V. Proposed Action

EPA is proposing to approve portions of Mississippi's May 12, 2011, SIP revision adopting federal regulations amended in the May 16, 2008, NSR $PM_{2.5}$ Rule and the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC rule into the Mississippi SIP with the exception of the SIL thresholds and the provision regarding the applicability of the term ''particulate matter emissions.'' EPA has made the preliminary determination that this SIP revision, with regard to the aforementioned proposed actions, is approvable because it is consistent with section 110 of the CAA and EPA regulations regarding NSR permitting.

VI. 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 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 proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 F43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 12, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–17893 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 25, and 52

[FAR Case 2011–029; Docket No. 2011–0029; Sequence 1]

RIN 9000–AM20

Federal Acquisition Regulation; Contractors Performing Private Security Functions Outside the United States

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Governmentwide requirements in National Defense Authorization Acts that establish minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before September 21, 2012 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2011–029 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2011–029'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with FAR Case 2011–029. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''FAR Case 2011–029'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), Attn: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAR case 2011–029 in all correspondence related to this case. 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: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR case 2011–029.

SUPPLEMENTARY INFORMATION:

I. Background

The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110–181, enacted January 28, 2008), section 862, entitled ''Contractors Performing Private Security Functions in Areas of Combat Operations,'' was amended by section 853 of the NDAA for FY 2009 (Pub. L. 110–417, enacted October 14, 2008) and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383, enacted January 7, 2011). See 10 U.S.C. 2302 Note. The statute requires (1) the establishment of Governmentwide policies and (2) FAR coverage implementing the Governmentwide policies specified in the statutes and the resulting Governmentwide policy document.

This proposed rule is focused solely on providing implementing contractual language and a contract clause, as mandated by statute. Agencies are reminded that they may further supplement the applicability of these requirements beyond those included in this rule in accordance with FAR subpart 1.3, Agency Acquisition Regulations. While section 862 of the 2008 NDAA required standardization of rules for private security contractors that are performing in designated areas of combat operations or other significant military operations, the underlying Governmentwide instruction was the responsibility of the Secretary of Defense, in coordination with the Secretary of State. The resultant regulation was published as a final rule at 32 CFR part 159, entitled ''Private Security Contractors Operating in Contingency Operations, Combat Operations or Other Significant Military Operations,'' on August 11, 2011 (see 76 FR 49650) (or, see the corresponding Department of Defense Instruction (DoDI) 3020.50 at *http://www.dtic.mil/whs/directives/corres/pdf/302050p.pdf).*

The regulations implementing the referenced statutory provisions for contracts are proposed to be located in FAR subpart 25.3, entitled ''Contracts Performed Outside the United States.'' The coverage implementing section 862, as amended, is proposed to be located at a new FAR section 25.302.

32 CFR part 159 provides two broad exemptions from this coverage, one for contracts entered into by elements of the intelligence community in support of intelligence activities (the source is paragraph (h)(1) of section 862, as amended), and a second for temporary arrangements entered into by non-DoD contractors for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company (the source is 32 CFR 159.3, section (3) of the definition of ''covered contract'').

Further, 32 CFR part 159 applies differently to DoD and non-DoD agencies. It applies to DoD contracts performed in areas of contingency operations outside the United States. It applies to DoD and non-DoD contracts performed in areas of combat operations as designated by the Secretary of Defense. It applies to DoD contracts performed in areas of other significant military operations as designated by the Secretary of Defense and to non-DoD contracts performed in areas of other significant military operations as designated by the Secretary of Defense and agreed to by the Secretary of State.

FAR 2.101, Definitions, currently provides the definition of ''contingency operation'' from 10 U.S.C. 101(a)(13). Definitions in this proposed rule include ''private security functions,'' ''other significant military operations,'' and ''area of combat operations'' from 32 CFR 159.3 and the statute. This coverage would not apply to the performance of private security functions within the U.S. It would not apply outside the U.S. in areas that are not (a) combat operations, (b) contingency operations, or (c) other significant military operations, as designated by the Secretary of Defense and agreed to by the Secretary of State. In addition, the proposed FAR coverage would apply to the performance of private security functions, regardless of whether the performance of the security functions are the primary function of the contract or ancillary functions. For example, a contractor delivering construction materials in an area of contingency operations might subcontract with a private security contractor to protect its supplies and employees during delivery. Although the supplier of the construction materials is not a private security contractor, the requirements of the clause proposed at FAR 52.225–XX, Contractors Performing Private Security Functions Outside the United States, are applicable. As a further example, the same contractor, if delivering construction materials to a base in Germany would not be governed, at this time, by the requirements and limitations of FAR 52.225–XX because Germany is not a designated area. This is further clarified by the proposed FAR 25.302–4, Policy.

The proposed FAR 25.302–4 subsection would implement the relevant policy document, 32 CFR part 159, and assign contractor responsibilities for the selection, accountability, training, equipping, and conduct of personnel performing private security functions under contracts in the covered areas. It also would assign responsibilities and establish procedures for incident reporting, use of and accountability for equipment, and rules for the use of force.

The law includes specific remedies for violations of the responsibilities and procedures in the law. These are addressed at FAR 25.302–5, Remedies. Without impinging on the Government's usual contractual remedies (*e.g.,* termination for default), the proposed rule would allow the Government, at its discretion, to direct the contractor to remove or replace any personnel who fail to comply with, or violate, applicable requirements of the clause at FAR 52.225–XX. Such corrective actions would be required to be taken at the contractor's own expense and without prejudice to any other contractual rights. The proposed rule also includes additional remedies as follows:

1. Contracting officers must include a contractor's failure to comply in appropriate past-performance databases.

2. If the contract is an award-fee contract, the contracting officer must include performance failure in the assessment of award fees for the relevant period (as well as authorizing the treatment of such failures as a basis for reducing or denying award fees for the relevant period or recovering all or part of award fees previously paid for such period).

3. If the contractor's performance failures are severe, prolonged, or repeated, the statute requires the contracting officer to refer the matter to the appropriate suspension and debarment official.

The clause prescription, at FAR 25.302–6, proposes to closely follow the applicability coverage at FAR 25.302–2.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action, and therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 862 of the NDAA for FY 2008, as amended by section 853 of the NDAA for FY 2009 and sections 831 and 832 of the NDAA for FY 2011. The statutory provisions, together with the implementing Governmentwide regulations required by the statute (32 CFR part 159, published at 76 FR 49650 on August 11, 2011) add requirements and limitations for contractors performing private security functions in areas of contingency operations, combat operations, or other military operations as designated by the Secretary of Defense, upon agreement of the Secretaries of Defense and State. These requirements are that contractors performing in areas such as Iraq and Afghanistan ensure that their personnel performing private security functions comply with 32 CFR part 159, including (1) accounting for Government-acquired and contractor-furnished property and (2) reporting incidents in which a weapon is discharged, personnel are attacked or killed or property is destroyed, or active, lethal countermeasures are employed.

At this time, the only statistics available are from DoD. Other agencies are beginning to award contracts for performance in areas subject to the statute as U.S. troops are recalled. In FY 2010, DoD awarded 1,839 contracts for performance in Iraq and Afghanistan. Of this total, 361, or 20 percent, were awarded to small businesses. Firms performing under DoD contracts in these areas were already required to register their private security personnel, weapons, and certain vehicles under a web-based system (SPOT), and contractors for the Department of State and the U.S. Agency for International

Development (AID) have been using SPOT in Iraq and Afghanistan. The requirement to report the occurrence of certain incidences is on an as-needed basis and is minimal.

As DoD personnel exit the areas of current contingency operations, *e.g.,* Iraq and Afghanistan, support requirements are being transitioned to other Government agencies. The expected total number of contracts requiring the use of private security contractors is approximately one half of the DoD level, but the assumption was made that 20 percent of these contracts would continue to be awarded to small businesses.

The impact on small business subcontractors will be minor, for several reasons. Not all subcontracts involve the performance of private security functions, in which case the clause does not flow down to the subcontract. Therefore, in these situations, there is no impact on small business subcontractors. Further, most subcontracts that require the performance of private security functions in the areas of Iraq and Afghanistan are being awarded to firms based in those countries. Such firms are, by definition, not small businesses because they are not U.S. firms. In the small proportion of situations where a subcontractor is both a U.S. small business and is performing private security functions, the costs of compliance will be included in the proposed and negotiated subcontract cost. At this time the clause would only apply to the Department of Defense, as the Secretary of Defense has made no designations of area (see FAR 25.302–2(b)).

The publication of 32 CFR part 159 will provide consistency in reporting requirements and accountability for private security personnel and their weapons, thus simplifying compliance for small and large businesses.

While DoD contractors and subcontractors currently are required by another clause to register equipment and personnel using the DoD's Synchronized Predeployment and Operational Tracker (SPOT) System, there are, at present, no reporting systems that have been developed by non-DoD agencies. An information collection request has been prepared and submitted to the Office of Management and Budget with this proposed rule.

The proposed rule does not unnecessarily overlap or conflict with existing coverage at Defense Federal Acquisition Regulation Supplement (DFARS) 225.370. However, the DFARS coverage will be amended to delete duplicative text when a final rule is published for this FAR case. There are no alternatives that would further decrease the already minimal economic impact of the statute's implementation.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. The Councils will consider comments from small entities concerning the affected FAR parts 1, 25, and 52 in accordance with 5 U.S.C. 610. Comments must be submitted separately and should cite 5 U.S.C 601, *et seq.* (FAR case 2011–029), in correspondence.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) applies. The proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat submitted a request for approval of a new information collection requirement for non-DoD agencies to the Office of Management and Budget (OMB). OMB has assigned the number 9000–0184, entitled ''Contractors Performing Private Security Functions Outside the United States,'' for this new information collection request. DoD's information collection has been approved previously under OMB Control Number 0704–0460, Synchronized Predeployment and Operation Tracker (SPOT) System.

A. Public reporting burden for this collection of information is estimated to average 0.109 hours per response, including the time for identifying and inputting information.

The annual reporting burden is estimated as follows:

Respondents: 920.

Responses per respondent: 5.

Total annual responses: 4,600.

Preparation hours per response: 0.109 hours.

Total response Burden Hours: 501.

B. Request for Comments Regarding Paperwork Burden.

Submit comments, including suggestions for reducing this burden, not later than September 21, 2012 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the FAR, and 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.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat (MVCB), Attn: Hada Flowers, 1275 First Street NE., 7th floor, Washington, DC 20417. Please cite OMB Control Number 9000–0184, Contractors Performing Private Security Functions Outside the United States, in all correspondence.

List of Subjects in 48 CFR Parts 1, 25, and 52

Government procurement.

Dated: July 12, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 25, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 25, and 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

2. Amend section 1.106, in the table following the introductory text, by adding in numerical sequence, FAR segment ''52.225–XX'' and its corresponding OMB Control No. ''9000–0184''.

PART 25—FOREIGN ACQUISITION

3. Add subpart 25.302 to read as follows:

Subpart 25.302 Contractors Performing Private Security Functions Outside the United States

Sec.

25.302–1 Scope.
25.302–2 Applicability.
25.302–3 Definitions.
25.302–4 Policy.
25.302–5 Remedies.
25.302–6 Contract clause.

Subpart 25.302 Contractors Performing Private Security Functions Outside the United States

25.302–1 Scope.

This section prescribes policy for implementing section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110–181), as amended by section 853 of the NDAA for FY 2009 (Pub. L. 110–417), and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383) (see 10 U.S.C. 2302 Note).

25.302–2 Applicability.

(a) DoD: This section applies to acquisitions by Department of Defense components for supplies and services under a contract that requires performance—

(1) During contingency operations outside the United States;

(2) In an area of combat operations as designated by the Secretary of Defense; or

(3) In an area of other significant military operations as designated by the Secretary of Defense.

(b) Non-DoD agencies: This section applies to acquisitions by non-DoD agencies for supplies and services under a contract that requires performance—

(1) In an area of combat operations as designated by the Secretary of Defense; or

(2) In an area of other significant military operations as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(c) These designations can be found at *http://www.acq.osd.mil/dpap/pacc/cc/designated_areas_of_other_significant_military_operations.html* and *http://www.acq.osd.mil/dpap/pacc/cc/designated_areas_of_combat_operations.html.*

(d) When the applicability requirements of this subsection are met, contractors and subcontractors must comply with 32 CFR part 159, whether the contract is for the performance of private security functions as a primary deliverable or the deliverable is other supplies or services and the provision of private security functions is ancillary.

(e) The requirements of this section 25.302 shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities, and temporary arrangements entered into by non-DoD contractors for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company; these temporary arrangements must still comply with local law.

25.302–3 Definitions.

As used in this section—

Area of combat operations means an area of operations designated as such by the Secretary of Defense when enhanced coordination of private security contractors working for Government agencies is required.

Other significant military operations means activities, other than combat operations, as part of a contingency operation outside the United States that is carried out by United States Armed Forces in an uncontrolled or unpredictable high-threat environment where personnel performing security functions may be called upon to use deadly force (see 25.302–2(b)(2)).

Private security functions means activities engaged in by a contractor, as follows—

(1) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the contractor or subcontractor, or a third party; or

(2) Any other activity for which personnel are required to carry weapons in the performance of their duties in accordance with the terms of the contract.

25.302–4 Policy.

(a) *General.* (1) The policy, responsibilities, procedures, accountability, training, equipping, and conduct of personnel performing private security functions in designated areas are addressed at 32 CFR part 159, entitled ''Private Security Contractors (PSCs) Operating in Contingency Operations, Combat Operations, or Other Significant Military Operations.'' Contractor responsibilities include ensuring that employees are aware of, and comply with, relevant orders, directives, and instructions; keeping appropriate personnel records; accounting for weapons; registering and identifying armored vehicles, helicopters, and other military vehicles; and reporting specified incidents in which personnel performing private security functions under a contract are involved.

(2) In addition, contractors are required to cooperate with any Government-authorized investigation into incidents reported pursuant to paragraph (b)(3) of the clause at 52.225–XX, Contractors Performing Private Security Functions Outside the United States, by providing access to employees performing private security functions and relevant information in the possession of the contractor regarding the incident concerned.

(b) *Implementing guidance.* In accordance with 32 CFR part 159—

(1) Geographic combatant commanders will provide DoD private security contractors with guidance and procedures for the operational environment in their area of responsibility; and

(2) In a designated area of combat operations, or areas of other significant military operations, as designated by the Secretary of Defense and only upon agreement of the Secretary of Defense and the Secretary of State, the relevant Chief of Mission will provide implementing instructions for non-DoD private security contractors and their personnel consistent with the standards set forth by the geographic combatant commander. In a designated area of combat operations, 32 CFR 159.4(c) gives the Chief of Mission the option of instructing non-DoD private security contractors and their personnel to follow the guidance and procedures of the geographic Combatant Commander and/or a sub-unified commander or joint force commander where specifically authorized by the combatant commander to do so and notice of that authorization is provided to non-DoD agencies.

25.302–5 Remedies.

(a) In addition to other remedies available to the Government—

(1) The contracting officer may direct the contractor, at its own expense, to remove and replace any contractor personnel performing private security functions who fail to comply with or violate applicable requirements. Such action may be taken at the Government's discretion without prejudice to its rights under any other contract provision, *e.g.,* termination for default;

(2) The contracting officer shall include the contractor's failure to comply with the requirements of this section in appropriate databases of past performance and consider any such failure in any responsibility determination or evaluation of past performance; and

(3) In the case of award-fee contracts, the contracting officer shall consider a contractor's failure to comply with the requirements of this subsection in the evaluation of the contractor's performance during the relevant evaluation period, and may treat such failure as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period.

(b) If the performance failures are severe, prolonged, or repeated, the contracting officer shall refer the matter to the appropriate suspension and debarment official.

25.302–6 Contract clause.

(a) Use the clause at 52.225–XX, Contractors Performing Private Security Functions Outside the United States, in the following solicitations and contracts:

(1) A DoD contract for performance of services and/or delivery of supplies in an area of:

(i) Contingency operations outside the United States;

(ii) Combat operations, as designated by the Secretary of Defense; or

(iii) Other significant military operations, as designated by the Secretary of Defense only upon agreement of the Secretary of Defense and the Secretary of State.

(2) A contract of a non-DoD agency for performance of services and/or delivery of supplies in:

(i) An area of combat operations, as designated by the Secretary of Defense; or

(ii) An area of other significant military operations, as designated by the Secretary of Defense and only upon agreement of the Secretary of Defense and the Secretary of State.

(b) The clause is not required to be used for:

(1) Contracts entered into by elements of the intelligence community in support of intelligence activities; or

(2) Temporary arrangements entered into by non-DoD contractors for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.212–5 by—

a. Revising the date of clause;

b. Redesignating paragraphs (b)(43) through (51) as paragraphs (b)(44) through (52), respectively;

c. Adding a new paragraph (b)(43);

d. Redesignating paragraphs (e)(1)(xiii) and (xiv) as paragraphs (e)(1)(xiv) and (xv), respectively; and

e. Adding a new paragraph (e)(1)(xiii).

The revised and added text reads as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (DATE)

* * * * *

(b) * * *

(43) 52.225–XX, Contractors Performing Private Security Functions Outside the United States (DATE) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

* * * * *

(e)(1) * * *

(i) * * *

(xiii) 52.225–XX, Contractors Performing Private Security Functions Outside the United States (DATE) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

* * * * *

5. Add section 52.225–XX to read as follows:

52.225–XX Contractors Performing Private Security Functions Outside the United States.

As prescribed in 25.302–6, insert the following clause:

Contractors Performing Private Security Functions Outside the United States (DATE)

(a) *Definition.*

Private security functions means activities engaged in by a Contractor, as follows:

(i) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the Contractor or subcontractor, or a third party; or

(ii) Any other activity for which personnel are required to carry weapons in the performance of their duties in accordance with the terms of this contract.

(b) *Requirements.* The Contractor is required to—

(1) Ensure that all employees of the Contractor who are responsible for performing private security functions under this contract comply with 32 CFR part 159, and with any orders, directives, and instructions to Contractors performing private security functions that are identified in the contract for—

(i) Registering, processing, accounting for, managing, overseeing, and keeping appropriate records of personnel performing private security functions;

(ii) Authorizing and accounting for weapons to be carried by or available to be used by personnel performing private security functions;

(iii) Registering and identifying armored vehicles, helicopters, and other military vehicles operated by Contractors performing private security functions; and

(iv) Reporting incidents in which—

(A) A weapon is discharged by personnel performing private security functions;

(B) Personnel performing private security functions are attacked, killed, or injured;

(C) Persons are killed or injured or property is destroyed as a result of conduct by contractor personnel;

(D) A weapon is discharged against personnel performing private security functions or personnel performing such functions believe a weapon was so discharged; or

(E) Active, non-lethal countermeasures (other than the discharge of a weapon) are employed by personnel performing private security functions in response to a perceived immediate threat;

(2) Ensure that the Contractor and all employees of the Contractor who are responsible for performing private security functions under this contract are briefed on and understand their obligation to comply with—

(i) Qualification, training, screening (including, if applicable, thorough background checks), and security requirements established by 32 CFR part 159, Private Security Contractors (PSCs) Operating in Contingency Operations, Combat Operations, or Other Significant Military Operations;

(ii) Applicable laws and regulations of the United States and the host country and applicable treaties and international agreements regarding performance of private security functions;

(iii) Orders, directives, and instructions issued by the applicable commander of a combatant command or relevant Chief of Mission relating to weapons, equipment, force protection, security, health, safety, or relations and interaction with locals; and

(iv) Rules on the use of force issued by the applicable commander of a combatant command or relevant Chief of Mission for personnel performing private security functions; and

(3) Cooperate with any Government-authorized investigation of incidents reported pursuant to paragraph (b)(1)(iv) of this clause and incidents of alleged misconduct by personnel performing private security functions under this contract by providing—

(i) Access to employees performing private security functions; and

(ii) Relevant information in the possession of the Contractor regarding the incident concerned.

(c) *Remedies.* In addition to other remedies available to the Government—

(1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any Contractor personnel performing private security functions who fail to comply with or violate applicable requirements of this clause or 32 CFR part 159. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract.

(2) The Contractor's failure to comply with the requirements of this clause will be included in appropriate databases of past performance and considered in any responsibility determination or evaluation of past performance; and

(3) If this is an award-fee contract, the Contractor's failure to comply with the requirements of this clause shall be considered in the evaluation of the Contractor's performance during the relevant evaluation period, and the Contracting Officer may treat such failure to comply as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period.

(d) *Rule of construction.* The duty of the Contractor to comply with the requirements of this clause shall not be reduced or diminished by the failure of a higher- or lower-tier Contractor or subcontractor to comply with the clause requirements or by a failure of the contracting activity to provide required oversight.

(e) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts that will be performed in areas of—

(1) *DoD contracts only:* Contingency operations, combat operations, as designated by the Secretary of Defense, or other significant military operations, as designated by the Secretary of Defense; or

(2) *Non-DoD contracts:* Combat operations, as designated by the Secretary of Defense, or other significant military operations, upon agreement of the Secretaries of Defense and State that the clause applies in that area.

(End of clause)

[FR Doc. 2012–17477 Filed 7–20–12; 8:45 am]

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Notices

Federal Register
Vol. 77, No. 141
Monday, July 23, 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

July 18, 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.

Food and Nutrition Service

Title: SuperTracker Information Collection for Registration, Login, and Food Intake and Physical Activity Assessment Information.

OMB Control Number: 0584–0535.

Summary of Collection: The U.S. Department of Agriculture (USDA), Center for Nutrition Policy and Promotion (CNPP) supports and promotes the health of all Americans by producing and promoting up-to-date science-based dietary guidance, including the Dietary Guidelines for Americans 2010 and MyPlate communication initiative. The Dietary Guidelines for Americans are the cornerstone of Federal nutrition policy for the general public, and they provide sound scientific advice for healthy Americans age 2 years and older about food choices that promote health and may prevent disease. The authority to collect the information can be found under Subtitle D of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171–3175) and 7 CFR 2.19(a)(3).

Need and Use of the Information: SuperTracker can assist the public in making diet and physical activity choices. Users voluntarily go to the *ChooseMyPlate.gov* Web site to submit information. The information obtained from users is stored in a user account, which is maintained by USDA information technology (IT) staff. If the information is not collected, users will not be able to assess individual food intake and physical activity status.

Description of Respondents: Individual or households.

Number of Respondents: 3,600,000.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 3,767,898.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–17867 Filed 7–20–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 18, 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: PPQ Form 816; Contract Pilot and Aircraft Acceptance.

OMB Control Number: 0579–0298.

Summary of Collection: The Plant Protection Act (7 U.S.C. 7701 *et seq.*)

authorizes the Secretary of Agriculture, either independently or in cooperation with States, to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests and noxious weeds that are new to or not widely distributed within the United States. This authority has been delegated to the Administrator, Animal and Plant Health Inspection Service (APHIS). APHIS carries out this program primarily by treating infested lands by aerial spraying of pesticides from aircraft.

Need and Use of the Information: Contract Pilot and Aircraft Acceptance Form (PPQ–816) is used by the Plant Protection and Quarantine personnel who are involved with contracts for aerial application services for emergency pest outbreaks. The form is used to document that the pilot and aircraft meet contract specifications. If APHIS did not collect this information or collected it less frequently, APHIS would not be able to verify if APHIS contracts for aerial application services met specifications.

Description of Respondents: Individuals or households.

Number of Respondents: 15.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–17868 Filed 7–20–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lolo National Forest; Montana; Center Horse Landscape Restoration EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to implement restoration activities, including vegetation management, road and trail management, and watershed improvement activities within the Monture, Dunham, Shanley, Cottonwood and Spring Creek drainages, Lolo National Forest, Seeley Lake Ranger District, Powell County, Montana. This EIS will tier to the Lolo National Forest Plan Final EIS (April 1986).

DATES: Comments concerning the scope of the analysis must be received by 30 days from date of publication of this notice in the **Federal Register**. The draft environmental impact statement is expected May 2013 and the final environmental impact statement is expected March 2014.

ADDRESSES: Send written comments to: Center Horse Landscape Restoration Project Leader, USDA Forest Service, 3583 Highway 83, Seeley Lake, MT 59868. Comments may also be sent via email to *comments-northern-lolo-seeley-lake@fs.fed.us* or via facsimile to 406–677–3902.

FOR FURTHER INFORMATION CONTACT: Tami Paulsen, Project Leader, (406) 329–3731.

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

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Center Horse Landscape Restoration Project is being designed to: (1) Improve/restore forest composition, spatial arrangement and structure, (2) restore fire adapted ecosystems, (3) improve water quality, restore or enhance fish and wildlife habitat, and conserve and improve soil resources, and (4) right size the existing transportation network to meet public and administrative needs while at the same time eliminating unneeded or environmentally impactive roads and trails.

Proposed Action

The Center Horse Landscape Restoration project area of approximately 61,300 acres is located east of Seeley Lake, Montana within T16N, R11W; T16N, R12W; T16N, R13W; T16N, R14W; T17N, R12W; T17N, R13W, T17N, R14W, P.M.M. Within this area, the Lolo National Forest proposes the following activities to achieve the purpose and need for the project: (1) Timber harvest and prescribed burning on approximately 5000 acres; (2) Commercial/non-commercial mechanical vegetation treatments and prescribed burning on about 1500 acres; (3) Precommercial thinning and prescribed burning on about 1325 acres; (4) Ecosystem maintenance burning preceded by hand slashing on approximately 8650 acres; (5) whitebark pine restoration on about 70 acres; (6) temporary road construction (about 5 miles); (7) re-route 5 road segments to improve fish habitat; (8) add existing roads to system (about 23.5 miles), add existing roads to system and store (about 8 miles), construct system road for re-route (about 2.5 miles), convert road to trail (about 10 miles), road decommissioning (about 160 miles), reconstruct road and add to system for alternate route (about 2.5 miles), reconstruct system road for alternate route (about 0.5 miles), store existing system road (about 7 miles), and change travel management (about 0.5 miles); (9) development and rehabilitation work at two existing gravel pits; (10) culvert replacements/removals; (11) evaluate 40 miles of user created non-system trails for inclusion into trail system inventory; (12) weed treatment, (13) soil resource improvement projects including weed treatment, landing and skid trail rehabilitation, and shrub and tree planting.

If, after the completion of the environmental analysis and review of public comments the Responsible Official decides to select an action alternative, implementation could begin in 2015 and would continue for several years.

Responsible Official

Lolo National Forest Supervisor.

Nature of Decision To Be Made

The Forest Supervisor will decide whether to implement the proposed action, take an alternative action that meets the purpose and need, or take no action. A site-specific amendment to the Lolo National Forest Plan is not anticipated.

Preliminary Issues

Preliminray issues include: (1) A significant portion of this analysis area is in the Bear-Marshall-Scapegoat-Swan Inventoried Roadless Area. While only noncommercial treatments ((i.e., ecosystem maintenance burning with incidental slashing (about 5,220 acres) and road decommissioning (about 3.2 miles)) are proposed in this IRA. Treatments in IRAs can be controversial; (2) Proposed activities could affect wildlife and wildlife habitat. Portions of the analysis area are within Lynx Analysis Units and the Northern Continental Divide Ecosystem Grizzly Bear Recovery Area; and, (3) The analysis area includes new acquisitions which need considerable restoration, particularly in terms of current numbers of roads, amount of invasive species, and altered forest conditions. They also present challenges due to limited availability of survey and inventory data and possible access limitations.

Permits or Licenses Required

Montana Stream Preservation Action—124 permit for instream work.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Information on the proposed action will be posted on the forest Web site at: *fs.usda.gov/lolo.* A public meeting will be held on July 26, 2012 at 4:00 to 7:00 p.m. at the Ovando Fire Hall (700 Pine St., Ovando, MT) about the proposed project.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: July 16, 2012.

Beverly A. Yelczyn,

Acting Forest Supervisor.

[FR Doc. 2012–17890 Filed 7–20–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Modoc County Resource Advisory Committee will meet in Alturas, CA. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 112–141) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to review Resource Advisory Committee Project Applications.

DATES: The meetings will be held August 6th, August 20th and September 10th, 2012 at 6 p.m.

ADDRESSES: The meeting will be held at Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas.

FOR FURTHER INFORMATION CONTACT: Kimberly Anderson, Forest Supervisor and Designated Federal Officer, at (530) 233–8700; or Resource Advisory Coordinator, Stephen Riley at (530) 233–8705.

SUPPLEMENTARY INFORMATION: The business meeting on August 6th, August 20th, and September 10th, 2012 will begin at 6 p.m., at the Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas, California 96101. Agenda topics will include voting and discussion of project proposals that meet the intent of Public Law 112–141. Time will also be set aside for public comments at the beginning of the meeting.

Dated: July 16, 2012.

Kimberly H. Anderson,

Forest Supervisor.

[FR Doc. 2012–17883 Filed 7–20–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–50–2012]

Foreign-Trade Zone 104—Savannah, GA; Application for Reorganization (Expansion of Service Area) and Expansion of Zone Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Savannah Airport Commission, grantee of FTZ 104, requesting authority to expand its service area and to expand the zone under the alternative site framework (ASF) adopted by the Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 17, 2012.

FTZ 104 was approved by the Board on October 6, 1983 (48 FR 46599, October 13, 1983) and reorganized under the ASF on January 12, 2011 (Board Order 1736, 76 FR 4865, January 27, 2011).

The zone project currently has a service area that includes the counties of Bulloch, Bryan, Chatham, Effingham, Evans, Liberty, Long and Screven. The applicant is requesting authority to expand the service area of the zone to include Columbia and Richmond Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The proposed expanded service area is adjacent to the Columbia, South Carolina Customs and Border Protection port of entry.

The applicant is also requesting approval of current temporary Sites 18, 19 and 20 as usage-driven sites as follows: *Site 18* (210 acres)—Deere & Company, 6030 Horizon Parkway, 234 John Deere Parkway, 700 Horizon South Parkway, and 6015 Horizon West Parkway, Groveton; *Site 19* (26 acres)—Bennett Distribution Services, 2340 Doug Bernard Parkway, Augusta; and, *Site 20* (12 acres)—Bennett Distribution Services, 922 Molly Pond Road Augusta. Sites 18–20 were temporarily approved until 5/31/2014.

In accordance with the Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 21, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 9, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: July 17, 2012.

Pierre Duy,

Acting Executive Secretary.

[FR Doc. 2012–17928 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–49–2012]

Foreign-Trade Zone 8—Toledo, OH; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Toledo-Lucas County Port Authority, grantee of FTZ 8, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 12, 2012.

FTZ 8 was approved by the Board on October 11, 1960 (Board Order 51, 25 FR 9099, 10/15/2960) and expanded on: January 22, 1973 (Board Order 92, 38 FR 3015, 1/31/1973); January 11, 1985 (Board Order 277, 50 FR 2702, 1/18/1985); August 19, 1991 (Board Order 532, 56 FR 42026, 8/26/1991); June 12, 2000 (Board Order 1102, 65 FR 37960, 6/19/2000); June 7, 2002 (Board Order 1231, 67 FR 41393, 6/18/2002); February 17, 2005 (Board Order 1376, 70 FR 9613–9614, 2/28/2005); August 23, 2005 (Board Order 1408, 70 FR 51335, 8/30/2005); and, August 5, 2009 (Board Order 1637, 74 FR 41374, 8/17/2009).

The current zone project includes the following sites: *Site 1* (332 acres)—Port of Toledo Complex, Toledo; *Site 2* (337 acres)—Toledo Express Airport, 11311 W. Airport Service Drive Swanton; *Site 3* (10 acres)—First Choice Packaging, 1501 West State Street Fremont; *Site 4* (459 acres)—Cedar Point Development Park, Lallendorf Road/Cedar Point Road/Wynn Road Oregon; *Site 5* (167 acres)—Ohio Northern Global Distribution and Business Training Center, 6722 Commodore Road Walbridge; *Site 7* (34 acres)—Ampoint Industrial Complex, 851 Third Street Perrysburg; and, *Site 8* (3 acres)—Metro International Trade Services, LLC, 1802 Nebraska Avenue Toledo.

The grantee's proposed service area under the ASF would be Sandusky, Henry, Wood, Lucas and Defiance Counties, Ohio, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Toledo-Sandusky Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include existing Sites 1, 2, 4, and 5 as ''magnet'' sites and Sites 7 and 8 as ''usage-driven'' sites. The applicant is also requesting that Site 3 be removed. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The applicant is also requesting approval of a subzone (Subzone 8I) under the ASF with the following sites: *Proposed Site 1* (205.2 acres)—Whirlpool Corporation, 119 Birdseye Street 1081 and 1285 W. McPherson Highway Clyde, Sandusky County; *Proposed Site 2* (23 acres)—Whirlpool C1 and C2 Warehouses, 240 and 247 Norwest Drive Clyde, Sandusky County; and, *Proposed Site 3* (2.9 acres)—Whirlpool C3 Warehouse, 8050 W. County Road 62, Green Springs, Sandusky County. The application would have no impact on FTZ 8's previously authorized subzones.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 21, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 9, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: July 12, 2012.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–17929 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–51–2012]

Foreign-Trade Zone 32—Miami, FL; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Greater Miami Foreign-Trade Zone, Inc., grantee of FTZ 32, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 13, 2012.

FTZ 32 was approved on September 6, 1977 (Board Order 123, 42 FR 46568, 09/16/77) and expanded on March 3, 1982 (Board Order 184, 47 FR 10612, 03/11/82), on March 20, 1990 (Board Order 466, 55 FR 11631, 03/29/90), and on March 13, 2007 (Board Order 1507, 72 FR 13080, 03/20/07). The current zone project includes the following sites: *Site 1* (70.5 acres)—warehouse and exhibition center, located at NW 25th Street and 107th Avenue, Miami; *Site 2* (205 acres)—Beacon Centre Development complex, located north of NW 12th Street and east of 87th Avenue, Miami; *Site 3* (49 acres)—Sysco Food Service warehouse, 12500 NW 112th Avenue, Medley; and, *Site 4* (2.5 acres, expires 9/30/2013)—Kansas Marine warehouse, 555 NE 185th Street, Miami.

The grantee's proposed service area under the ASF would be the portion of Miami-Dade County located north of State Road 836 (Dolphin Expressway) and south of US–27 (SW Okeechobee Road) and west of State Road 969 (Milam Dairy Road and West 72nd Avenue) to State Road 825 (NW 137th Avenue). If approved, the grantee would

be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within the Miami Customs and Border Protection port of entry. The grantee proposes to retain existing Site 4 which is located outside of the proposed service area.

The applicant is requesting authority to reorganize its existing zone project to include Sites 1 and 2 as ''magnet'' sites and Sites 3 and 4 as ''usage-driven'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 21, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 9, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz*. For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: July 13, 2012.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–17927 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment and Review (SEDAR); Public Meeting

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

ACTION: Notice of Assessment Webinar.

SUMMARY: The SEDAR 28 assessment of the Gulf of Mexico and South Atlantic Spanish mackerel and cobia fisheries will consist of a series of workshops and supplemental webinars. This notice is for a webinar associated with the Assessment portion of the SEDAR process. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 28 Assessment Workshop Webinar will be held on August 17, 2012 from 1 p.m. until 5 p.m. EST. The established time may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the times established by this notice.

ADDRESSES: The webinar will be held via a GoToMeeting Webinar Conference. The webinar is open to members of the public. Those interested in participating should contact Ryan Rindone at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request meeting information at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, SEDAR Coordinator, 2203 N. Lois Ave., Suite 1100, Tampa FL 33607; telephone: (813) 348–1630; email: *ryan.rindone@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico and the South Atlantic Fishery Management Councils (Councils), in conjunction with NOAA Fisheries, has implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process including a workshop and webinars; and (3) Review Workshop. The Data Workshop produces a data report that compiles and evaluates potential datasets and recommends the appropriate datasets for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Councils, NOAA Fisheries Southeast Regional Office, and the NOAA Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of the Councils, marine fisheries commissions, and state and federal agencies.

SEDAR 28 Assessment Workshop Webinar

Panelists will continue deliberations and discussions regarding modeling methodologies for the Gulf of Mexico and South Atlantic Spanish mackerel and cobia fisheries.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **FOR FURTHER INFORMATION CONTACT**) at least 10 business days prior to the meeting.

Dated: July 18, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–17828 Filed 7–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB146

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Pile Replacement Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the U.S. Navy (Navy) to incidentally harass, by Level B harassment only, six species of marine mammals during construction activities associated with a pile replacement project in Hood Canal, Washington.

DATES: This authorization is effective from July 16, 2012, through February 15, 2013.

ADDRESSES: A copy of the IHA and related documents are available by writing to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

A copy of the application, including references used in this document, may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* For those members of the public unable to view these documents on the Internet, a copy may be obtained by writing to the address specified above or telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**). The Navy's Environmental Assessment (2011) and Supplemental EA (2012) and our associated Finding of No Significant Impact, prepared pursuant to the National Environmental Policy Act, are also available at the same site. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if we find that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. We have defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, we must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

We received an application on March 8, 2012, from the Navy for the taking of marine mammals incidental to pile removal in association with a pile replacement project in the Hood Canal at Naval Base Kitsap at Bangor, WA (NBKB). This pile replacement project will occur during the designated in-water work window for Hood Canal, between July 16, 2012 and February 15, 2013. The issued IHA covers the second and final year of this project; we previously issued an IHA for the first year of work associated with this project (76 FR 30130; May 24, 2011). Seven species of marine mammals are known from the waters surrounding NBKB, including the Steller sea lion (*Eumetopias jubatus*), California sea lion (*Zalophus californianus*), harbor seal (*Phoca vitulina*), killer whale (*Orcinus orca;* transient type only), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), and humpback whale (*Megaptera novaeangliae*). These species may occur year-round in the Hood Canal, with the exception of the Steller sea lion, which is present only from fall to late spring (October to mid-April), and the California sea lion, which is not present during part of summer (late June through July). Additionally, while the Southern resident killer whale (listed as endangered under the Endangered Species Act [ESA]) is resident to the inland waters of Washington and British Columbia, it has not been observed in the Hood Canal in over 15 years and was therefore excluded from further analysis.

NBKB provides berthing and support services for OHIO Class ballistic missile submarines (SSBN), also known as TRIDENT submarines. The Navy's pile replacement project is necessary to complete repairs at the Explosive Handling Wharf #1 (EHW–1) facility at NBKB in order to to restore and maintain the structural integrity of the wharf and ensure its continued functionality to support necessary operational requirements. The EHW–1 facility, constructed in 1977, has become compromised due to the deterioration of the wharf's existing piling sub-structure. The planned activities include removal of ninety-six 24-in (0.6-m) diameter concrete piles, twenty-one 12-in (0.3-m) diameter steel fender piles, and eight 16-in (0.4-m) diameter steel falsework piles, and represent the remainder of work planned for the initial 2-year rehabilitation plan. The Navy is likely to continue rehabilitation work at EHW–1 in the long-term, but has no immediate plans to do so. All concrete piles would be removed via pneumatic chipping or similar method. All steel piles would be removed via vibratory hammer, direct pull, or, if necessary, cut off at the mud line; however, the analysis in this document assumes that all piles would be removed via vibratory hammer. No pile installation—and therefore no impact pile removal—will occur.

For pile removal activities, the Navy used our current thresholds for assessing impacts (NMFS, 2005, 2009), outlined later in this document. The Navy used recommended spreading loss formulas (the practical spreading loss equation for underwater sounds and the spherical spreading loss equation for airborne sounds) and empirically-measured source levels from 18- to 30-in (0.5- to 0.8-m) diameter steel pile removal events, or concrete pile removal events using similar methodology, to estimate potential marine mammal exposures. Predicted exposures are outlined later in this document. The calculations predict that no Level A harassments would occur associated with pile removal activities, and that as many as 1,416 Level B harassments may occur during the pile replacement project from generation of underwater sound. No incidents of harassment were predicted from airborne sounds associated with pile removal.

Description of the Specified Activity

NBKB is located on the Hood Canal approximately 20 miles (32 km) west of Seattle, Washington (see Figures 2–1 through 2–3 in the Navy's application). NBKB provides berthing and support services for OHIO Class ballistic missile

submarines (SSBN), also known as TRIDENT submarines. The Navy's pile replacement project is designed to maintain the structural integrity of EHW–1 and ensure its continued functionality to support operational requirements of the TRIDENT submarine program. Construction activities with the potential to cause harassment of marine mammals within the waterways adjacent to NBKB, under the MMPA, are vibratory and pneumatic chipping pile removal operations associated with the pile replacement project. These activities will occur between July 16, 2012 and February 15, 2013; all in-water construction activities within the Hood Canal are only permitted during July 16–February 15 in order to protect spawning fish populations.

As part of the Navy's sea-based strategic deterrence mission, the Navy Strategic Systems Programs directs research, development, manufacturing, test, evaluation, and operational support for the TRIDENT Fleet Ballistic Missile program. Maintenance and development of necessary facilities for handling of explosive materials is part of these duties. The Navy's repair project includes the removal of 126 steel and concrete piles at EHW–1. Please see Figures 1–1 through 1–3 of the Navy's application for conceptual and schematic representations of the work proposed for EHW–1. Of the piles requiring removal, 96 are 24-in (0.6-m) diameter hollow pre-cast concrete piles which will be excised down to the mud line. Twenty-one 12-in (0.3-m) steel fender piles and eight 16-in (0.4-m) steel falsework piles will be extracted using a vibratory hammer or direct pull, and one additional 24-in steel fender pile will be extracted via direct pull only. Also included in the repair work is removal of the fragmentation barrier and walkway, construction of new cast-in-place pile caps (concrete formwork may be located below Mean Higher High Water [MHHW]), installation of the pre-stressed superstructure, installation of four sled-mounted cathodic protection (CP) systems, and installation or re-installation of related appurtenances.

Work completed at EHW–1 during the first year of work, conducted under an IHA issued by us (76 FR 30130; May 24, 2011), was described in the notice of receipt of Navy's application and request for comments on the proposed IHA that was published in the **Federal Register** (hereafter, 'the FR notice'; 77 FR 25408; April 30, 2012). In addition, the work proposed by the Navy and scheduled for completion under the current IHA was described in detail. Please see that document for more information on the Navy's planned and completed construction activities.

The Navy estimates that steel pile removal will occur at an average rate of two piles per day and that concrete pile removal will occur at a rate of three piles per day. These two activities would likely not occur on the same day, however. On the basis of these estimates, the Navy states that steel pile removal would require 15 days and concrete pile removal would require an additional 32 days. Our analysis is thus based upon these numbers, and assumes that (1) all marine mammals available to be incidentally taken within the relevant area would be; and (2) individual marine mammals may only be incidentally taken once in a 24-hour period—for purposes of authorizing specified numbers of take—regardless of actual number of exposures in that period.

Description of Sound Sources and Distances to Thresholds

An in-depth description of sound sources in general was provided in the FR notice (77 FR 25408; April 30, 2012). Significant sound-producing in-water construction activities associated with the project include vibratory pile removal and pneumatic chipping of concrete piles.

Since 1997, we have used generic sound exposure thresholds as guidelines to estimate when harassment may occur. Current practice regarding exposure of marine mammals to sound defines thresholds as follows: cetaceans and pinnipeds exposed to sound levels of 180 and 190 dB root mean square (rms; note that all underwater sound levels in this document are referenced to a pressure of 1 μPa) or above, respectively, are considered to have been taken by Level A (i.e., injurious) harassment, while behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 120 dB rms for continuous sound (such as will be produced by the EHW–1 activities) and 160 dB rms for pulsed sound, but below injurious thresholds. For airborne sound, pinniped disturbance from haul-outs has been documented at 100 dB (unweighted) for pinnipeds in general, and at 90 dB (unweighted) for harbor seals (note that all airborne sound levels in this document are referenced to a pressure of 20 μPa).

Distance to Sound Thresholds

Pile removal generates underwater noise that could potentially result in disturbance to marine mammals in the project area. Please see the FR notice for a detailed description of the calculations and information used to estimate distances to relevant threshold levels. Transmission loss, or the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source, was estimated as so-called 'practical spreading loss'. This model follows a geometric propagation loss based on the distance from the pile, resulting in a 4.5 dB reduction in level for each doubling of distance from the source. In the model used here, the sound pressure level (SPL) at some distance away from the source (e.g., driven pile) is governed by a measured source level, minus the transmission loss of the energy as it dissipates with distance.

The intensity of pile removal sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. Despite a large quantity of literature regarding SPLs recorded from in-water construction projects, there is a general lack of empirical data regarding vibratory pile removal and the acoustic output of chipping hammers. In order to determine reasonable SPLs and their associated affects on marine mammals that are likely to result from pile removal at NBKB, studies with similar properties to the Navy's project were evaluated. Overall, studies which met the following parameters were considered: (1) Pile size and materials: Steel pipe pile removal (12- to 24-in diameter) and concrete pile removal with chipping hammer or similar method (because these tools are used to chip portions of concrete from the pile, sound output is not tied to pile size); (2) Hammer machinery: Vibratory hammer for steel piles and pneumatic chipping hammer or similar tool for concrete piles; and (3) Physical environment: shallow depth (less than 30 m).

Based on studies satisfying these parameters, the Navy determined that representative source levels (standardized to 1 m distance from the source) would be 180 dB rms for vibratory removal and 161 dB rms for pneumatic chipping. The estimated source level for vibratory removal is below the injury threshold for pinnipeds, while SPLs resulting from pneumatic chipping are well below levels that may cause injury to any marine mammal. These values represent reasonable SPLs which could be anticipated, and which were used in the acoustic modeling and analysis. All calculated distances to and the total area encompassed by the marine mammal underwater sound thresholds are provided in Table 1.

TABLE 1—CALCULATED DISTANCE(S) TO AND AREA ENCOMPASSED BY UNDERWATER MARINE MAMMAL SOUND THRESHOLDS

Threshold	Distance (m)	Area (km^2)
Vibratory removal, cetacean injury (180 dB)	1	< 0.001
Vibratory removal, disturbance (120 dB)	10,000	314
Pneumatic chipping, disturbance (120 dB)	542	0.9

The values presented in Table 1 assume a field free of obstruction, which is unrealistic, because Hood Canal does not represent open water conditions. Instead, sounds attenuate as they encounter land masses or bends in the canal. As a result, some of the distances and areas of impact calculated cannot actually be attained at the project area. The actual distances and areas for behavioral disturbance thresholds for vibratory pile removal and pneumatic chipping may be shorter and/or smaller than those calculated due to the irregular contour of the waterfront, the narrowness of the canal, and the maximum fetch (furthest distance sound waves travel without obstruction [i.e., line of sight]) at the project area. The actual areas encompassed by sound exceeding or reaching the 120 dB threshold are 35.9 km^2 and 0.6 km^2 for vibratory removal and pneumatic chipping, respectively. See Figures 6–1 and 6–2 of the Navy's application for a depiction of the size of areas in which each underwater sound threshold is predicted to occur at the project area due to pile removal.

Pile removal can generate airborne sound that could potentially result in disturbance to marine mammals (specifically, pinnipeds) which are hauled out or at the water's surface. As a result, the Navy analyzed the potential for pinnipeds hauled out or swimming at the surface near NBKB to be exposed to airborne SPLs that could result in Level B behavioral harassment. A spherical spreading loss model (i.e., 6 dB reduction in sound level for each doubling of distance from the source), in which there is a perfectly unobstructed (free-field) environment not limited by depth or water surface, is appropriate for use with airborne sound and was used to estimate the distance to the airborne thresholds.

As was discussed for underwater sound from pile removal, the intensity of pile removal sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to determine reasonable airborne SPLs and their associated effects on marine mammals that are likely to result from pile removal at NBKB, studies with similar properties to the Navy's project, as described previously, were evaluated. Evaluation of representative pile removal activities that have occurred in recent years, and which represent reasonable SPLs which could be anticipated, provide representative source levels of approximately 116.5 dB rms (unweighted) for vibratory removal and 112 dB rms (unweighted) for chipping. All calculated distances to and the total area encompassed by the marine mammal airborne sound thresholds are provided in Table 2.

TABLE 2—CALCULATED DISTANCE(S) TO AND AREA ENCOMPASSED BY AIRBORNE MARINE MAMMAL SOUND THRESHOLDS

Threshold	Distance (m)	Area (km^2)
Vibratory removal, pinniped disturbance (100 dB)	7	< 0.001
Vibratory removal, harbor seal disturbance (90 dB)	20	0.001
Pneumatic chipping, pinniped disturbance (100 dB)	4	< 0.001
Pneumatic chipping, harbor seal disturbance (90 dB)	13	< 0.001

Construction sound associated with the project would not extend beyond the disturbance zone for underwater sound that would be established to protect pinnipeds. No haul-outs or rookeries are located within the airborne harassment radii. It is important to note that animals within the harassment radii for airborne sound, even if they are in the water rather than hauled-out, may be exposed to SPLs that result in behavioral harassment when their heads are above water. However, these exposures are not considered separate 'takes' for purposes of estimating total incidental take that may be caused by the project activities, as the animals would be previously exposed to underwater sound at or above levels that may result in behavioral harassment. See Figures 6–3 through 6–6 of the Navy's application for a depiction of the size of areas in which each airborne sound threshold is predicted to occur at the project area due to pile removal.

Acoustic Monitoring

In 2011, the Navy conducted acoustic monitoring as required by IHAs for the first year of repair work at EHW–1 and for a test pile project (76 FR 25408; June 30, 2011) conducted in order to obtain geotechnical data in advance of the construction of a second EHW. The two projects together involved impact driving of 24 to 48-in piles, vibratory installation of 16 to 48-in piles, and vibratory removal of 12 to 48-in piles. All piles were steel pipe piles. Primary objectives for the acoustic monitoring were to characterize underwater and airborne source levels for each pile size and hammer type and to verify distances to relevant threshold levels by characterizing site-specific transmission loss. Secondary objectives included testing the effective attenuation performance for use of a bubble curtain and investigation of SPLs produced during soft starts. Select results are reproduced here; the interested reader may find the entire reports posted at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Pile size (in)	Hammer type [1]	n [2]	Underwater			Airborne		Distances to threshold (m) [7]					
			RL [3]	SD [4]	TL [5]	RL [6]	SD	190	180	160	120	100	90
24	Impact	1 (2)	174	0.7	13.2	89	n/a	< 10	< 10	108	n/a	47	150
36	Impact	10 (17)/9	182	5.7	16.4	92	2.3	< 10	28	398	n/a	48	150
48	Impact	4 (8)	187	4.4	13.4	91	2.1	< 10/15	40	1,180	n/a	34	108
24	Vibratory	4 (7)/2	164	5.0	17.4	91	1.4			n/a	2,635	14	45
36	Vibratory (I)	23 (42)/30	162	4.3	15.1	93	2.9			n/a	6,082	20	64
36	Vibratory (R)	21 (36)	157	4.5									
48	Vibratory (I)	7 (14)/11	163	5.1	16.3	94	3.2			n/a	5,046	24	75
48	Vibratory (R)	8 (15)	155	4.5									
12	Vibratory (R)	[8] 6 (4)	160	2.4	16.5					n/a	5,375	22	69
16	Vibratory (I)	8 (16)	159	4.7						n/a			
30	Vibratory (I)	44 (87)	165	4.5						n/a		44	138

[1] For vibratory hammer, I = installation and R = removal. Because of limited sample size for 24-in piles, all events were combined. All data for impact driving includes use of bubble curtain.

[2] n = sample size, or number of measured pile driving events. For categories where two numbers are listed, sample size was different for underwater and airborne measurements. For underwater, each event may have up to two measurements because two hydrophones were deployed at different depths although both hydrophones did not produce usable data for all events. For airborne events, each event represents a single measurement. Information is presented as follows: # underwater events measured (total # measurements—maximum would be twice the total # events)/# airborne events measured (if different).

[3] Received level at 10 m, presented in dB re: 1 μPa rms.

[4] Standard deviation

[5] Transmission loss (log_{10}). Mean TL calculations for vibratory driving were not separated by I/R. A single mean TL value was calculated for 12/16/30-in piles.

[6] Received level at 15 m, presented in dB re: 20 μPa rms. Airborne measurements were combined for I/R events, as no difference in airborne SPLs would be expected. No near-source measurements were conducted for 12/16/30-in piles.

[7] Indicated thresholds are in dB rms and correspond with those described previously under Description of Sound Sources and Distances to Thresholds. Combined values for mean distance to threshold were calculated for I/R events and for airborne sound. Values were calculated using interpolated TL values and SPL measurements at multiple distances from the source. A dash indicates that mean source level was below the relevant threshold. For impact driving of 48-in piles, mean distance to the 190 dB threshold was calculated as being < 10 m for measurements taken at the mid-depth hydrophone and 15 m for measurements taken at the deep hydrophone. For all others, mean of the mean values taken at mid-depth and deep hydrophone is presented.

[8] These six events were measured in two episodes; i.e., three separate events were measured to provide a mean in each of two episodes.

Comparison of Predictions and Measurements

The project activities involve vibratory removal of 12 to 16-in steel piles and removal by pneumatic chipping or similar method of concrete piles. Sound levels produced by the latter activity are not dependent upon pile size. As shown by the empirical data collected during 2011 activities, vibratory removal of 12- and 16-in piles would be expected to produce sound levels not exceeding the thresholds for Level A harassment (i.e., 180/190 dB rms). The actual distance to the 120 dB rms behavioral harassment threshold is likely to be significantly smaller than predicted. There is no relevant comparison for pneumatic chipping.

Mean distances to airborne thresholds were larger than those predicted for vibratory removal activities. The observed distances for 2011 activities remain smaller than the least distance to an available haul-out area. However, regardless of actual distance to threshold, it is likely that any animal exposed to airborne sound that may result in behavioral harassment would also be exposed to underwater sound above behavioral harassment thresholds, even if hauled-out during pile removal activity. We recognize that swimming pinnipeds may be exposed to airborne sound that may cause behavioral harassment if they raise their heads above water within the relevant zone; however, for purposes of take estimation these are accounted for through estimation of incidental take resulting from underwater sound. An animal is considered to be 'available' for incidental take by behavioral harassment only once per 24-hour period, regardless of source.

Comments and Responses

We published a notice of receipt of the Navy's application and proposed IHA in the **Federal Register** on April 30, 2012 (77 FR 25408). During the 30-day comment period, NMFS received a letter from the Marine Mammal Commission (MMC). The MMC's comments, and our responses, are provided here. All measures proposed in the initial **Federal Register** notice are included within the authorization and NMFS has determined that they will effect the least practicable impact on the species or stocks and their habitats.

Comment 1: The Commission recommends that we require the Navy to measure in-air sound levels as a function of distance from the pneumatic chipper and make concurrent observations of marine mammal behavioral responses to in-air sound produced by those activities.

Response: We concur with the Commission's recommendation. As originally proposed, the Navy will measure airborne sound levels associated with removal of concrete piles. The specifics of the monitoring protocol are described in detail in the Navy's Acoustic Monitoring Plan. The Navy will make concurrent observations of behavioral reactions and, if possible, relate these to approximate received levels of sound in order to better understand what levels of sound might result in behavioral harassment given the context present at the time of the observation. The Commission also notes that they would welcome the opportunity to consult with us to (1) identify the types of activities that have the potential to take marine mammals by exposure to in-air sounds, (2) determine the best scientific basis for identifying exposure thresholds of concern, and (3) develop research strategies for gathering the information needed to set more reliable thresholds. We look forward to working with the Commission to better understand these issues.

The Commission also encourages us to simply specify that the authorized number of takes of pinnipeds by Level B harassment, although based upon the predicted footprint of underwater sound, could occur by exposure to underwater and/or airborne sound when the animals are within an area that is ensonified to both 120 dB underwater (for non-pulsed sounds, as will be produced by this project) and 90/100 dB in-air (harbor seals and other pinnipeds, respectively), rather than attempting to predict these takes separately. We agree with that recommendation. Pinnipeds, whether hauled-out or looking with head above water in the project vicinity, may be exposed to both airborne and underwater sound levels that could cause behavioral reactions indicating harassment. We consider exposure of the same individual to different stimuli

that may potentially result in harassment—whether airborne or underwater sound or pulsed or non-pulsed sound—within the same 24-hour period to be a single incidence of take.

Comment 2: The Commission recommends that we require the Navy to re-estimate the number of in-water and in-air takes using the overall density of harbor seals in Hood Canal (i.e., 3.74 animals/km^2) or to use a different density estimate if monitoring data indicate one that is appropriate.

Response: We disagree with the Commission's recommendation and feel that the density estimate used for estimating potential incidental take is sufficiently conservative. As described in greater detail in the FR notice of proposed authorization (77 FR 25408; April 30, 2012), the Navy's density estimate relies on work showing that, of an estimated 1,088 seals resident to the Hood Canal, approximately 35 percent will be in the water at any given time (Huber *et al.,* 2001; Jeffries *et al.,* 2003), producing a density estimate of 1.31 seals/km^2. The Commission contends that this will result in an underestimate of take, because essentially all of the seals may enter the water over the matter of hours during which pile removal may occur in a day. It is possible that greater than 35 percent of seals could enter the water during the course of pile removal activity. However, remembering that the population estimate of 1,088 seals represents the entirety of Hood Canal (291 km^2 vs. the 35.9 km^2 predicted area of effect), it is unlikely that all of these animals would be exposed to elevated levels of sound from the project, even over the course of multiple days. No data exist regarding fine-scale harbor seal movements within the project area on time durations of less than a day, thus precluding an assessment of ingress or egress of different animals through the action area. As such, it is impossible, given available data, to determine exactly what number of individuals above 35 percent may potentially be exposed to underwater sound. There are no existing data that would indicate that the proportion of individuals entering the water within the predicted area of effect during pile removal would be dramatically larger than 35 percent; thus, the Commission's suggestion that 100 percent of the population be used to estimate density would likely result in a gross exaggeration of potential take.

In addition, there are a number of factors indicating that the density we used should not result in an underestimate of take. Hauled-out harbor seals are necessarily at haul-outs, and no significant harbor seal haul-outs are located within or near the action area. Harbor seals observed in the vicinity of the NBKB shoreline are rarely hauled-out (for example, in formal surveys during 2007–08, approximately 86 percent of observed seals were swimming), and when hauled-out, they do so opportunistically (i.e., on floating booms rather than established haul-outs). Harbor seals are typically unsuited for using manmade haul-outs at NBKB, which are used by sea lions. Primary harbor seal haul-outs in Hood Canal are located at significant distance (20 km or more) from the action area in Dabob Bay or further south (see Figure 4–1 in the Navy's application), meaning that animals casually entering the water from haul-outs or flushing due to some disturbance at those locations would not likely be exposed to underwater sound from the project; rather, only those animals embarking on foraging trips and entering the action area may be exposed. Moreover, because the Navy is unable to determine from field observations whether the same or different individuals are being exposed, each observation will be recorded as a new take, although an individual theoretically would only be considered as taken once in a given day.

There are two final factors that support the conservatism of the 1.31 density estimate: (1) limited surveys conducted during construction in Hood Canal during off days in 2011 produced an uncorrected density estimate of approximately 0.55 seals/km^2; and (2) although authorized to incidentally take 1,668 seals (corrected for actual number of pile driving days) during two projects conducted in Hood Canal in 2011, the total estimate of actual take (observed takes and observations extrapolated to unobserved area) was only 187 seals.

Comment 3: The Commission recommends that we require the Navy to implement soft-start procedures after 15 minutes if pile removal was delayed or shut down because of the presence of a marine mammal within or approaching the shutdown zone.

Response: We disagree with this recommendation. The Commission cites several reasons why pinnipeds may remain in a shutdown zone after shutdown and yet be undetected by observers during the 15 minute clearance period (e.g., perception and availability bias). While this is possible in theory, we find it extremely unlikely that an animal could remain undetected in such a small zone and under typical conditions in Hood Canal. The shutdown zone for pinnipeds has a 10 m radial distance, while typical observation conditions in the Hood Canal are excellent. We believe the possibility of a pinniped remaining undetected in the shutdown zone, in relatively shallow water, for greater than 15 minutes is discountable. A requirement to implement soft start after every shutdown or delay less than 30 minutes in duration would be impracticable, resulting in significant construction delays and therefore extending the overall time required for the project, and thus the number of days on which disturbance of marine mammals could occur.

Comment 4: The Commission recommends that we require the Navy to develop a monitoring strategy that ensures it will be able to detect and characterize marine mammal responses to the pile removal activities as a function of sound levels and distance from the pile removal sites.

Response: We believe that the Navy, in consultation with us, has developed such a strategy. The Commission states that the goal is not simply to employ a strategy that ensures monitoring out to a certain distance, but rather to employ a strategy that provides the information necessary to determine if the construction activities have adverse effects on marine mammals and to describe the nature and extent of those effects. We agree with that statement, and note that the Navy does not simply monitor within defined zones, ignoring occurrences outside those zones. The mitigation strategy is designed to implement shutdown of activity only for marine mammal occurrence within designated zones, but all observations of marine mammals, and any observed behavior, whether construed as a reaction to project activity or not, are recorded, regardless of distance to project activity. This information is coupled with acoustic monitoring data (i.e., sound levels recorded at multiple defined distances from the activity) to draw conclusions about the impact of the activity on marine mammals. The Commission notes that the Navy does not plan to use vessel-based observers in the far-field. This is technically correct for the EHW–1 project, but there will be at least one vessel-based observer located on the far-field acoustic monitoring vessel associated with the concurrent EHW–2 project, for a minimum of 30 days. Information from this far-field observer effort will be applicable to both EHW–1 and EHW–2 projects, in terms of ensuring that actual marine mammal occurrence in the far-field is not substantially different from what has been assumed on the basis of 2011 monitoring, other past monitoring efforts specific to NBKB, and

information found in the literature. Additionally, the larger monitoring effort conducted by the Navy in deeper waters of Hood Canal during their 2011 project monitoring was an important piece of the Navy's overall monitoring strategy for the ongoing suite of actions at NBKB and may reasonably be used as a reference for the current activities. Using that information, as well as the results of the more limited deep-water component of the EHW–2 monitoring plan, we can gain an acceptable understanding of marine mammal occurrence and behavior within the Level B harassment zone in deeper waters beyond the waterfront restricted area, which is intensively monitored. It is unclear what aspects of the monitoring goals or strategy the Commission considers inadequate.

Comment 5: The Commission recommends that we complete an analysis of the impact of the proposed activities together with the cumulative impacts of all the other pertinent risk factors (including the Navy's concurrent EHW–2 construction project) impacting marine mammals in the Hood Canal area prior to issuing the incidental harassment authorization.

Response: Section 101(a)(5)(D) of the MMPA requires NMFS to make a determination that the harassment incidental to a specified activity will have a negligible impact on the affected species or stocks of marine mammals, and will not result in an unmitigable adverse impact on the availability of marine mammals for taking for subsistence uses. Neither the MMPA nor NMFS' implementing regulations specify how to consider other activities and their impacts on the same populations. However, consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into the negligible impact analysis via their impacts on the environmental baseline (e.g., as reflected in the density/distribution and status of the species, population size and growth rate, and ambient noise).

In addition, cumulative effects were addressed in the Navy's Environmental Assessment and in the biological opinion prepared for this action. These documents, as well as the relevant Stock Assessment Reports, are part of NMFS' Administrative Record for this action, and provided the decision-maker with information regarding other activities in the action area that affect marine mammals, an analysis of cumulative impacts, and other information relevant to the determination made under the MMPA.

Comment 6: The Commission recommends that we encourage the Navy to combine future requests for incidental harassment authorizations for all activities that would occur in the same general area and within the same year rather than segmenting those activities and their associated impacts by requesting separate authorizations.

Response: We agree with the Commission's recommendation and have encouraged the Navy to do so.

Comment 7: The Commission recommends that we adopt a policy to provide an additional opportunity for public review and comment before amending authorizations if any substantive changes are made to them after they have been issued or if the information on which a negligible impact determination is based is significantly changed in a way that indicates the likelihood of an increased level of taking or impacts not originally considered.

Response: We disagree with the Commission's contention that the referenced IHA modifications constituted a substantive change. The modifications involved small increases to the amount of incidental take of harbor porpoise authorized for two projects conducted in 2011 at NBKB in response to new information about harbor porpoise occurrence and habitat use at NBKB. In our findings for the referenced modification, we determined that authorization of the incidental taking, by Level B harassment only, of increased numbers of harbor porpoise did not alter the original scope of activity analyzed, the monitoring and mitigation measures implemented, or the impact analysis in a manner that materially affected the basis for our original findings. The increased level of authorized take for harbor porpoise remained a small number, by any definition of that term. The Inland Washington stock of harbor porpoise is not listed under the ESA, nor is it considered depleted or designated as a strategic stock under the MMPA. The increase in takings was considered negligible in comparison with the overall population of the stock. The modifications reflected a more complete understanding of harbor porpoise presence and use of habitat in the Hood Canal, but constituted a negligible increase in impacts to the stock. We believe that those modifications were within the scope of analysis supporting the determinations for the original IHAs, and that those original findings remained valid. Nevertheless, we thank the Commission for the recommendation and will consider it in the future for situations where substantive changes are required.

Description of Marine Mammals in the Area of the Specified Activity

There are seven marine mammal species, four cetaceans and three pinnipeds, which may inhabit or transit through the waters nearby NBKB in the Hood Canal. These include the transient killer whale, harbor porpoise, Dall's porpoise, Steller sea lion, California sea lion, harbor seal, and humpback whale. While the Southern Resident killer whale is resident to the inland waters of Washington and British Columbia, it has not been observed in the Hood Canal in over 15 years, and therefore was excluded from further analysis. The Steller sea lion and humpback whale are the only marine mammals that may occur within the Hood Canal that are listed under the ESA; the humpback whale is listed as endangered and the eastern distinct population segment (DPS) of Steller sea lion is listed as threatened. All marine mammal species are protected under the MMPA. The FR notice (77 FR 25408; April 30, 2012) summarizes the population status and abundance of these species and provides detailed life history information.

Potential Effects of the Specified Activity on Marine Mammals

NMFS has determined that pile removal, as outlined in the project description, has the potential to result in behavioral harassment of marine mammals that may be swimming, foraging, or resting in the project vicinity while pile removal is being conducted. Pile removal could potentially harass those pinnipeds that are in the water close to the project site, whether their heads are above or below the surface. The FR notice (77 FR 25408; April 30, 2012) provides a detailed description of marine mammal hearing and of the potential effects of these construction activities on marine mammals.

Anticipated Effects on Habitat

The proposed activities at NBKB would not result in permanent impacts to habitats used directly by marine mammals, such as haul-out sites, but may have potential short-term impacts to food sources such as forage fish and salmonids. There are no rookeries or major haul-out sites within 10 km (6.2 mi), foraging hotspots, or other ocean bottom structures of significant biological importance to marine mammals that may be present in the marine waters in the vicinity of the

project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The most likely impact to marine mammal habitat occurs from pile removal effects on likely marine mammal prey (i.e., fish) near NBKB and minor impacts to the immediate substrate during removal of piles during the wharf rehabilitation project. The FR notice (77 FR 25408; April 30, 2012) describes these potential impacts in greater detail.

Previous Activity

The proposed action for this IHA request represents the second year of a 2-year project. We issued an IHA for the first year of work on May 24, 2011 (76 FR 30130). In accordance with the 2011 IHA, the Navy submitted a monitoring report, and the information contained therein was considered in this analysis. During the course of activities conducted under the previous authorization, the Navy did not exceed the take levels authorized under that IHA. Additional information regarding harbor porpoise, Steller sea lion, and humpback whale occurrence in the Hood Canal has been considered in this analysis.

Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

The predicted results for zones of influence (ZOIs; see ''Estimated Take by Incidental Harassment'') were used to develop mitigation measures for pile removal activities at NBKB. ZOIs are often used to effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment of marine mammals, and also establish zones within which Level B harassment of marine mammals may occur. In addition to the measures described later in this section, the Navy will employ the following standard mitigation measures:

(a) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, acoustical monitoring team, and Navy staff prior to the start of all pile removal activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) Comply with applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment.

(c) For in-water heavy machinery work other than pile removal, if a marine mammal comes within 10 m (33 ft), operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include, for example, movement of the barge to the pile location or removal of the pile from the water column/substrate via a crane (i.e., direct pull). For these activities, monitoring will take place from 15 minutes prior to initiation until the action is complete.

Monitoring and Shutdown

The following measures apply to the Navy's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile removal activities, the Navy will establish a shutdown zone (defined as, at minimum, the area in which SPLs equal or exceed the 180/190 dB rms acoustic injury criteria). The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury, serious injury, or death of marine mammals. Although predictions indicate (and empirical measurements confirm) that radial distances to the 180/190-dB threshold will be less than 10 m—or would not exist because source levels are lower than the threshold—shutdown zones will conservatively be set at a minimum 10 m. This precautionary measure is intended to further reduce any possibility of injury to marine mammals by incorporating a buffer to the 180/190-dB threshold within the shutdown area.

Disturbance Zone—Disturbance zones are typically defined as the area in which SPLs equal or exceed 120 dB rms (for non-pulsed sound, as will be produced by the project activities). However, when the size of a disturbance zone is sufficiently large as to make monitoring of the entire area impracticable (as in the case of the vibratory removal zone here, predicted to encompass an area of 35.9 km^2), the disturbance zone may be defined as some area that may reasonably be monitored or, alternatively, is a de facto zone defined by the distance that monitors are capable of observing from defined deployment locations. For removal of concrete piles, the Navy is able to monitor the entire area of predicted ensonification to levels exceeding the behavioral harassment criterion (542 m radial distance). However, for all activities, protected species observers (PSOs) will record all observations of marine mammals, whether estimated to be within a defined zone or not.

Disturbance zones provide utility for monitoring conducted for mitigation purposes (i.e., shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables PSOs to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Monitoring and Reporting). As with any such large action area, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound.

All disturbance and shutdown zones would initially be based on the distances from the source that are predicted for each threshold level. However, should data from in-situ acoustic monitoring indicate that actual distances to these threshold zones are different, the size of the shutdown and disturbance zones would be adjusted accordingly. However, these adjustments should not be considered 'real-time', as the collection and processing of a sufficient quantity of data upon which to base such a decision cannot generally occur on a real-time basis. Nevertheless, if data clearly indicate that zones are inaccurate and EHW–1 project activity is ongoing, appropriate adjustments of shutdown zones shall be made.

Monitoring Protocols—Monitoring would be conducted for a minimum 10 m shutdown zone surrounding each pile for the presence of marine mammals before, during, and after pile removal activities. In addition, PSOs shall record all observable incidences of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions. However, observations made outside the

shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile removal activities would be halted.

Detailed observations outside the Waterfront Restricted Area (WRA) as defined by the Port Security Barrier, are likely not possible, and it would be impossible for the Navy to account for all individuals occurring within the full disturbance zone with any degree of certainty. Monitoring would take place from 15 minutes prior to initiation through 30 minutes post-completion of pile removal activities. Pile removal activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile removal equipment is no more than 30 minutes.

The following additional measures would apply to visual monitoring:

(a) Monitoring would be conducted by qualified observers. Qualified observers are trained biologists, with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Advanced education in biological science, wildlife management, mammalogy, or related fields (bachelor's degree or higher is required);
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

A trained observer would be placed from the best vantage point(s) practicable, as defined in the Navy's Marine Mammal Monitoring Plan, to monitor for marine mammals and implement shutdown or delay procedures when applicable by calling for the shutdown to the equipment operator.

(b) Prior to the start of pile removal activity, the shutdown zone will be monitored for 15 minutes to ensure that it is clear of marine mammals. Pile removal will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the disturbance zone (i.e., must leave of their own volition) and their behavior will be monitored and documented.

(c) If a marine mammal approaches or enters the shutdown zone during the course of pile removal operations, pile removal will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal.

Acoustic Measurements

Acoustic measurements would be used to empirically characterize source levels for pneumatic chipping. For further detail regarding the Navy's acoustic monitoring plan see ''Monitoring and Reporting''.

Timing Restrictions

The Navy has set timing restrictions for pile removal activities to avoid in-water work when ESA-listed fish populations are most likely to be present. The in-water work window for avoiding negative impacts to fish species is July 16–February 15.

Soft-start

The use of a soft-start procedure is believed to provide additional protection to marine mammals by warning, or providing marine mammals a chance to leave the area prior to the hammer operating at full capacity. The wharf rehabilitation project will utilize soft-start techniques for vibratory pile removal. The soft-start requires contractors to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a 30-second waiting period. This procedure is repeated two additional times.

Daylight Construction

Pile removal and other in-water work will occur only during daylight hours (i.e., civil dawn to civil dusk).

Mitigation Effectiveness

It should be recognized that although marine mammals will be protected through the use of measures described here, the efficacy of visual detection depends on several factors including the observer's ability to detect the animal, the environmental conditions (visibility and sea state), and monitoring platforms. All observers utilized for mitigation activities will be experienced biologists with training in marine mammal detection and behavior. Trained observers have specific knowledge of marine mammal physiology, behavior, and life history, which may improve their ability to detect individuals or help determine if observed animals are exhibiting behavioral reactions to construction activities.

The Puget Sound region, including the Hood Canal, only infrequently experiences winds with velocities in excess of 25 kn (Morris *et al.,* 2008). The typically light winds afforded by the surrounding highlands coupled with the fetch-limited environment of the Hood Canal result in relatively calm wind and sea conditions throughout most of the year. The wharf rehabilitation project site has a maximum fetch of 8.4 mi (13.5 km) to the north, and 4.2 mi (6.8 km) to the south, resulting in maximum wave heights of from 2.85–5.1 ft (0.9–1.6 m) (Beaufort Sea State (BSS) between two and four), even in extreme conditions (30 kn winds) (CERC, 1984). Visual detection conditions are considered optimal in BSS conditions of three or less, which align with the conditions that should be expected for the wharf rehabilitation project at NBKB.

We have carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation, including consideration of personnel safety, and practicality of implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered, we have determined that the proposed mitigation

measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that we must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Acoustic Monitoring

The Navy will conduct acoustic monitoring for pneumatic chipping of concrete piles to characterize the actual source levels for this previously unstudied activity. Previous monitoring conducted by the Navy in 2011 provides data on site-specific propagation loss that may be applied to empirically measured source levels in order to determine actual distances to relevant thresholds. In addition, airborne acoustic monitoring will be conducted during pile removal through chipping.

The Navy will conduct acoustic monitoring in accordance with the NMFS-approved acoustic monitoring plan. Please see that plan, available at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm,* for more detail. At a minimum, acoustic monitoring, both underwater and in-air, will be conducted for five concrete piles. However, monitoring may be continued if necessary to collect a representative and usable dataset.

Visual Monitoring

The Navy would collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers would be trained in marine mammal identification and behaviors. NMFS requires that the observers have no other construction-related tasks while conducting monitoring. The Navy will conduct biological monitoring in accordance with the NMFS-approved marine mammal monitoring plan. Please see that document, available at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm,* for more information.

Methods of Monitoring—The Navy would monitor the shutdown zone and surrounding waters before, during, and after pile removal. There would, at all times, be at least one observer stationed at an appropriate vantage point to observe the shutdown zones associated with each operating hammer. There would also at all times be at least one additional observer stationed to observe the surrounding waters within the WRA. Based on NMFS requirements, the Marine Mammal Monitoring Plan includes the following procedures for pile removal:

(1) MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.

(2) During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.

(3) If the shutdown zone or surrounding waters within the WRA are obscured by fog or poor lighting conditions, pile removal at that location will not be initiated until that zone is visible.

(4) The shutdown zone and surrounding waters within the WRA will be monitored for the presence of marine mammals before, during, and after any pile removal activity.

Pre-activity Monitoring—The shutdown zone and surrounding waters within the WRA will be monitored for 15 minutes prior to initiating pile removal. If marine mammal(s) are present within the shutdown zone prior to pile removal, or during the soft start, the start of pile removal will be delayed until the animal(s) leave the shutdown zone. Pile removal will resume only after the PSO has determined, through observation or by waiting 15 minutes, that the animal(s) has moved outside the shutdown zone.

During Activity Monitoring—The shutdown zone and surrounding waters within the WRA will also be monitored throughout the time required to remove a pile. If a marine mammal is observed entering the disturbance zone, a take will be recorded and behaviors documented. However, that pile segment will be completed without cessation, unless the animal enters or approaches the shutdown zone, at which point all pile removal activities will be halted. Pile removal can only resume once the animal has left the shutdown zone of its own volition or has not been re-sighted for a period of 15 minutes.

Post-Activity Monitoring—Monitoring of the shutdown zone and surrounding waters within the WRA will continue for 30 minutes following the completion of pile removal.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and will seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between the Navy and NMFS.

Data Collection

We require that the PSOs use NMFS-approved sighting forms. In addition to certain specific information related to mitigation implementation, as specified in the marine mammal monitoring plan, we require that, at a minimum, the following information be collected on the sighting forms:

(1) Date and time that pile removal begins or ends;

(2) Construction activities occurring during each observation period;

(3) Weather parameters identified in the acoustic monitoring (e.g., percent cover, visibility);

(4) Water conditions (e.g., sea state, tide state);

(5) Species, numbers, and, if possible, sex and age class of marine mammals;

(6) Marine mammal behavior patterns observed, including bearing and direction of travel, and if possible, the correlation to SPLs;

(7) Distance from pile removal activities to marine mammals and distance from the marine mammals to the observation point;

(8) Locations of all marine mammal observations; and

(9) Other human activity in the area.

Reporting

A draft acoustic monitoring report will be submitted within 90 working days of the completion of the acoustic measurements. Separately, a draft marine mammal monitoring report would be submitted within 90 working days of the completion of construction activity. The report would include marine mammal observations pre-activity, during-activity, and post-activity during pile removal days. Final reports would be prepared and submitted within 30 days following receipt of comments on the draft report. The Navy will provide estimates of the total incidental taking of marine mammals in the report. Among available data, the Navy will have GPS-corrected positions for both the observers and the individual piles being driven; estimated distances from the PSOs to observed marine mammals; and

actual pile-specific distances to relevant thresholds. Using this information, the Navy is able to determine which actual observations comprised incidental takes. The Navy will extrapolate these data to the remainder of unmonitored area ensonified to levels equaling or exceeding relevant thresholds for acoustic disturbance to reach a total estimate of the actual incidental taking.

Contents of the reports will be in accordance with the respective monitoring plans and, at minimum, will include:

- Date and time of activity;
- Water and weather conditions (e.g., sea state, tide state, percent cover, visibility);
- Description of the pile removal activity (e.g., size and type of piles, machinery used);
- The vibratory hammer force or chipping hammer setting used to extract the piles;
- A description of the monitoring equipment;
- The distance between hydrophone(s) and pile;
- The depth of the hydrophone(s);
- The physical characteristics of the bottom substrate from which the pile was extracted (if possible);
- The rms range and mean for each monitored pile;
- The results of the acoustic measurements, including the frequency spectrum, peak and rms SPLs for each monitored pile;
- The results of the airborne sound measurements (unweighted levels);
- Date and time observation is initiated and terminated;
- A description of any observable marine mammal behavior in the immediate area and, if possible, the correlation to underwater sound levels occurring at that time;
- Actions performed to minimize impacts to marine mammals;
- Times when pile removal is stopped due to presence of marine mammals within shutdown zones and time when pile removal resumes;
- Results, including the detectability of marine mammals, species and numbers observed, sighting rates and distances, behavioral reactions within and outside of shut down zones; and
- A refined take estimate based on the number of marine mammals observed in the shutdown and disturbance zones.

Estimated Take by Incidental Harassment

With respect to the activities described here, the MMPA defines ''harassment'' as: ''Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

All anticipated takes will be by Level B harassment, involving temporary changes in behavior. The planned mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury or mortality is considered remote. However, it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

If a marine mammal responds to an underwater sound by changing its behavior (e.g., through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. This practice potentially overestimates the numbers of marine mammals taken. For example, during the past 10 years, killer whales have been observed within the project area twice. On the basis of that information, an estimated amount of potential takes for killer whales is presented here. However, while a pod of killer whales could potentially visit again during the project timeframe, and thus be taken, it is more likely that they would not.

The project area is not believed to be particularly important habitat for marine mammals, although harbor seals are year-round residents of Hood Canal and sea lions are known to haul-out on submarines and other man-made objects at the NBKB waterfront (although typically at a distance of a mile or greater from the project site). Therefore, behavioral disturbances that could result from anthropogenic sound associated with the proposed activities are expected to affect only a relatively small number of individual marine mammals, although those effects could be recurring if the same individuals remain in the project vicinity.

The Navy requested authorization for the potential taking of small numbers of Steller sea lions, California sea lions, harbor seals, transient killer whales, Dall's porpoises, and harbor porpoises in the Hood Canal that may result from pile removal during construction activities associated with the wharf rehabilitation project described previously in this document. The potential for incidental take of humpback whale is considered discountable; however, should a humpback whale occur within the project area the activity would have to cease in order to avoid an unauthorized take. The takes requested are expected to have no more than a minor effect on individual animals and no effect at the population level for these species. Any effects experienced by individual marine mammals are anticipated to be limited to short-term disturbance of normal behavior or temporary displacement of animals near the source of the sound.

Marine Mammal Densities

For all species, the best scientific information available was used to construct density estimates or estimate local abundance. Of available information deemed suitable for use, the data that produced the most conservative (i.e., highest) density or abundance estimate for each species was used. For harbor seals, this involved published literature describing harbor seal research conducted in Washington and Oregon as well as more specific counts conducted in Hood Canal (Huber *et al.,* 2001; Jeffries *et al.,* 2003). Killer whales are known from two periods of occurrence (2003 and 2005) and are not known to preferentially use any specific portion of the Hood Canal. Therefore, density was calculated as the maximum number of individuals present at a given time during those occurrences (London, 2006), divided by the area of Hood Canal. The best information available for the remaining species in Hood Canal came from surveys conducted by the Navy at the NBKB waterfront or in the vicinity of the project area. These consist of three discrete sets of survey effort, which were described in detail in the FR notice. Please see that document for an in-depth discussion (77 FR 25408; April 30, 2012).

The cetaceans, as well as the harbor seal, appear to range throughout Hood Canal; therefore, the analysis in this proposed IHA assumes that harbor seal, transient killer whale, harbor porpoise, and Dall's porpoise are uniformly

distributed in the project area. However, it should be noted that there have been no observations of cetaceans within the WRA security barrier; the barrier thus appears to effectively prevent cetaceans from approaching the shutdown zones (please see Figure 6–2 of the Navy's application; the WRA security barrier, which is not denoted in the figure legend, is represented by a thin gray line). Although source levels associated with the proposed actions are so low that no Level A harassments would likely occur even in the absence of any mitigation measures, it appears that cetaceans at least are not at risk of Level A harassment at NBKB even from louder activities (e.g., impact pile driving). The remaining species that occur in the project area, Steller sea lion and California sea lion, do not appear to utilize most of Hood Canal. The sea lions appear to be attracted to the man-made haul-out opportunities along the NBKB waterfront while dispersing for foraging opportunities elsewhere in Hood Canal. California sea lions were not reported during aerial surveys of Hood Canal (Jeffries *et al.,* 2000), and Steller sea lions have only been documented at the NBKB waterfront.

Description of Take Calculation

The take calculations presented here rely on the best data currently available for marine mammal populations in the Hood Canal. The methodology for estimating take was described in detail in the FR notice (77 FR 25408; April 30, 2012). The ZOI impact area is the estimated range of impact to the sound criteria. The distances specified in Table 1 were used to calculate ZOI around each pile; although attenuation due to landforms was considered when defining the ZOI, as described in the text following Table 1. The ZOI impact area took into consideration the possible affected area of the Hood Canal from the pile removal site furthest from shore with attenuation due to land shadowing from bends in the canal. Because of the close proximity of some of the piles to the shore, the narrowness of the canal at the project area, and the maximum fetch, the ZOIs for each threshold are not necessarily spherical and may be truncated. Although mean distances to thresholds as determined during acoustic monitoring in 2011 may differ somewhat—primarily in that the distances to the 120 dB threshold are likely to be much smaller for vibratory removal—we have maintained the take estimated based on predicted distances, as analyzed in the notice of proposed authorization. Therefore, these take estimates are likely to be conservative.

For sea lions, the surveys offering the most conservative estimates of abundance do not have a defined survey area and so are not suitable for deriving a density construct. Instead, abundance is estimated on the basis of previously described opportunistic sighting information at the NBKB waterfront, and it is assumed that the total amount of animals known from NBKB haul-outs would be 'available' to be taken in a given pile removal day. Thus, for these two species, take is estimated by multiplying abundance by days of activity. The total number of days spent removing piles is expected to be a maximum of 15 for vibratory removal and 32 for chipping.

The exposure assessment methodology is an estimate of the numbers of individuals exposed to the effects of pile removal activities exceeding NMFS-established thresholds. Of note in these exposure estimates, mitigation methods (i.e., visual monitoring and the use of shutdown zones) were not quantified within the assessment and successful implementation of this mitigation is not reflected in exposure estimates. Results from acoustic impact exposure assessments should be regarded as conservative estimates.

Airborne Sound—No incidents of incidental take resulting solely from airborne sound are likely, as even the larger distances to the harassment thresholds seen in acoustic monitoring from 2011 would not reach any areas where pinnipeds may haul out. While pinnipeds swimming within these zones may be exposed to airborne sound of sufficient intensity to result in behavioral harassment, these animals would previously have been 'taken' as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple incidents of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction.

The derivation of density or abundance estimates for each species, as well as further description of the rationale for each take estimate, was described in detail in the FR notice (77 FR 25408; April 30, 2012). Total take estimates, and numbers of take per species to be authorized, are presented in Table 4. It is worth noting that the Navy will attempt to conclude project activities as early as possible after the beginning of the in-water work window. With an estimated 47 days of project activities, it is possible that project activities could conclude before the sea lion species begin to arrive in significant numbers; thus, the estimates for sea lions may be very conservative.

California Sea Lion

California sea lions are present in Hood Canal during much of the year with the exception of mid-June through August. California sea lions occur regularly in the vicinity of the project site from September through mid-June. With regard to the range of this species in Hood Canal and the project area, it is assumed on the basis of waterfront observations (Agness and Tannenbaum, 2009; Tannenbaum *et al.,* 2009, 2011) that the opportunity to haul out on submarines docked at Delta Pier is a primary attractant for California sea lions in Hood Canal, as they have rarely been reported, either hauled out or swimming, elsewhere in Hood Canal (Jeffries, 2007). Female California sea lions are rarely observed north of the California/Oregon border; therefore, only adult and sub-adult males are expected to be exposed to project impacts.

The ZOI for vibratory removal encompasses areas where California sea lions are known to haul-out; assuming that 26 individuals could be taken per day of vibratory removal provides an estimate of 390 takes for that activity. The ZOI for pneumatic chipping does not encompass areas where California sea lions are known to occur; nevertheless, it is likely that some individuals would transit this area in route to haul out or forage. Therefore, although it is possible that no California sea lions would be exposed to sound from pneumatic chipping, we expect that at least one individual California sea lion could be exposed to sound levels indicating Level B harassment per day of pneumatic chipping.

Steller Sea Lion

Steller sea lions were first documented at the NBKB waterfront in November 2008, while hauled out on submarines at Delta Pier (Bhuthimethee, 2008; Navy, 2010) and have been periodically observed since that time. Steller sea lions typically occur at NBKB from November through April; however, the first October sightings of Steller sea lions at NBKB occurred in 2011. Based on waterfront observations, Steller sea lions appear to use available haul-outs (typically in the vicinity of Delta Pier, approximately one mile south of the project area) and habitat similarly to California sea lions, although in lesser

numbers. On occasions when Steller sea lions are observed, they typically occur in mixed groups with California sea lions also present, allowing observers to confirm their identifications based on discrepancies in size and other physical characteristics.

The time period from November through April coincides with the time when Steller sea lions are frequently observed in Puget Sound. Only adult and sub-adult males are likely to be present in the project area during this time; female Steller sea lions have not been observed in the project area. Since there are no known breeding rookeries in the vicinity of the project site, Steller sea lion pups are not expected to be present. By May, most Steller sea lions have left inland waters and returned to their rookeries to mate. Although sub-adult individuals (immature or pre-breeding animals) will occasionally remain in Puget Sound over the summer, observational data have indicated that Steller sea lions are present only from October through April and not during the summer months.

Steller sea lions are known only from haul-outs over one mile from the project area. The ZOI for vibratory removal encompasses areas where Steller sea lions are known to haul-out; assuming that one individual could be taken per day of vibratory removal provides an estimate of fifteen takes for that activity. However, the available abundance information does not reflect the nature of Steller sea lion occurrence at NBKB. According to the most recent observational information, if Steller sea lions are present at NBKB, it is possible that as many as four individuals could be present on submarines docked at Delta Pier or in waters adjacent to these haul-outs. Thus, we conservatively assume that up to four individuals could be exposed to sound levels indicating Level B harassment per day of vibratory pile removal. Similar to California sea lions, the ZOI for pneumatic chipping does not encompass areas where Steller sea lions are known to occur; nevertheless, it is possible that some individuals could transit this area in route to haul out or forage. Therefore, although it is possible that no Steller sea lions would be exposed to sound from pneumatic chipping, we expect that the equivalent of at least one individual Steller sea lion could be exposed to sound levels indicating Level B harassment per day of pneumatic chipping.

Harbor Seal

Harbor seals are the most abundant marine mammal in Hood Canal, and they can occur anywhere in Hood Canal waters year-round. During most of the year, all age and sex classes could occur in the project area throughout the period of construction activity. As there are no known regular pupping sites in the vicinity of the project area, harbor seal neonates are not expected to be present during pile removal. Otherwise, during most of the year, all age and sex classes could occur in the project area throughout the period of construction activity. Harbor seal numbers increase from January through April and then decrease from May through August as the harbor seals move to adjacent bays on the outer coast of Washington for the pupping season. The main haul-out locations for harbor seals in Hood Canal are located on river delta and tidal exposed areas at various river mouths, with the closest haul-out area to the project area being 10 mi (16 km) southwest of NBKB (London, 2006). Please see Figure 4–1 of the Navy's application for a map of haul-out locations in relation to the project area.

Humpback Whales

One humpback whale has recently been documented in Hood Canal. This individual was originally sighted on January 27, 2012, and was last reported on February 23, 2012, indicating that the animal has almost certainly left the area. Although known to be historically abundant in the inland waters of Washington, no other confirmed documentation of humpback whales in Hood Canal is available. Their presence has likely not occurred in several decades, with the last known reports being anecdotal accounts of three humpback sightings from 1972–82. Although a calculated density (representing this single known individual in Hood Canal) is presented in Table 4, the important point is that we consider it extremely unlikely that any humpback whales would be present during the project timeframe. Therefore, the likelihood of incidental take of humpback whales is discountable.

Killer Whales

Transient killer whales are uncommon visitors to Hood Canal. Transients may be present in the Hood Canal anytime during the year and traverse as far as the project site. Resident killer whales have not been observed in Hood Canal, but transient pods (six to eleven individuals per event) were observed in Hood Canal for lengthy periods of time (59–172 days) in 2003 (January–March) and 2005 (February-June), feeding on harbor seals (London, 2006). These whales used the entire expanse of Hood Canal for feeding. Subsequent aerial surveys suggest that there has not been a sharp decline in the local seal population from these sustained feeding events (London, 2006).

Dall's Porpoise

Dall's porpoises may be present in the Hood Canal year-round and could occur as far south as the project site. Their use of inland Washington waters, however, is mostly limited to the Strait of Juan de Fuca. One individual has been observed by Navy staff in deeper waters of Hood Canal.

Harbor Porpoise

Harbor porpoises may be present in the Hood Canal year-round; their presence had previously been considered rare. During waterfront surveys of NBKB nearshore waters from 2008–10 only one harbor porpoise had been observed. However, during monitoring of Navy actions in 2011, several sightings indicated that their presence may be more frequent in deeper waters of Hood Canal than had been believed on the basis of existing survey data and anecdotal evidence. Subsequently, the Navy conducted dedicated vessel-based line transect surveys on days when no construction activity occurred (due to security, weather, etc.) and made regular observations of harbor porpoise groups. It should be noted that, due to the availability of corrected trackline distances for harbor porpoise surveys conducted in 2011, that density estimate has been revised from 0.250 animals/km^2 to 0.231 animals/km^2 for survey data through September 28, 2011.

Potential takes could occur if individuals of these species move through the area on foraging trips when pile removal is occurring. Individuals that are taken could exhibit behavioral changes such as increased swimming speeds, increased surfacing time, or decreased foraging. Most likely, individuals may move away from the sound source and be temporarily displaced from the areas of pile removal. Potential takes by disturbance would likely have a negligible short-term effect on individuals and not result in population-level impacts.

TABLE 8—NUMBER OF POTENTIAL INCIDENTAL TAKES OF MARINE MAMMALS WITHIN VARIOUS ACOUSTIC THRESHOLD ZONES

Species	Density/ Abundance	Underwater			Airborne	Total proposed authorized takes
		Injury threshold [1]	Disturbance threshold—vibratory removal (120 dB)	Disturbance threshold—pneumatic chipping (120 dB)	Disturbance threshold [2]	
California sea lion	[3] 26.2	0	* 390	* 32	0	422
Steller sea lion	[3] 1.2	0	* 60	* 32	0	92
Harbor seal	1.31	0	705	32	0	737
Humpback whale	0.003	0	0	0	N/A	0
Killer whale	0.038	0	15	0	N/A	15
Dall's porpoise	0.014	0	15	0	N/A	15
Harbor porpoise	0.231	0	120	0	N/A	120
Total	0	1,305	96	0	1,401	

* See preceding species-specific discussions for description of take estimate.

[1] Acoustic injury threshold is 190 dB for pinnipeds and 180 dB for cetaceans. No activity would produce source levels equal to 190 dB, while only vibratory removal would produce a source level of 180 dB.

[2] Acoustic disturbance threshold is 100 dB for sea lions and 90 dB for harbor seals. We believe that any animal subject to levels of airborne sound that may result in harassment—whether hauled-out or in the water—would likely also be exposed to underwater sound above behavioral harassment thresholds within the same day. Therefore, no take authorization specific to airborne sound is warranted.

[3] Figures presented are abundance numbers, not density, and are calculated as the average of average daily maximum numbers per month. Abundance numbers are rounded to the nearest whole number for take estimation.

Negligible Impact and Small Numbers Analysis and Preliminary Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * *an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, we consider a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

Pile removal activities associated with the wharf rehabilitation project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated through pile removal. No mortality, serious injury, or Level A harassment is anticipated given the nature of the activity (i.e., non-pulsed sound with low source levels) and measures designed to minimize the possibility of injury to marine mammals, while Level B harassment would be reduced to the level of least practicable adverse impact for the same reasons. Specifically, these removal methods would produce lower source levels than would pile installation with a vibratory hammer, which does not have significant potential to cause injury to marine mammals due to its sound source characteristics and relatively low source levels. Pile removal will either not start or be halted if marine mammals approach the shutdown zone (described previously in this document). The pile removal activities analyzed here carry significantly less risk of impact to marine mammals than did other construction activities analyzed and monitored within the Hood Canal, including two recent projects conducted by the Navy at the same location (test pile project and the first year of EHW–1 pile replacement work) as well as work conducted in 2005 for the Hood Canal Bridge (SR–104) by the Washington Department of Transportation. These activities have taken place with no reported injuries or mortality to marine mammals.

The numbers of authorized take for marine mammals would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. The proposed numbers of authorized take represent 5 percent of the relevant stock for harbor seals, 4.2 percent for transient killer whales, and 1.1 percent for harbor porpoises; the proposed numbers are less than 1 percent for the remaining species. However, even these low numbers represent potential instances of take, not the number of individuals taken. That is, it is likely that a relatively small subset of Hood Canal harbor seals, which is itself a small subset of the regional stock, would be harassed by project activities.

For example, while the available information and formula estimate that as many as 737 exposures of harbor seals to stimuli constituting Level B harassment could occur, that number represents some portion of the approximately 1,088 harbor seals resident in Hood Canal (approximately 7 percent of the regional stock) that could potentially be exposed to sound produced by pile removal activities on multiple days during the project. No rookeries are present in the project area, there are no haul-outs other than those provided opportunistically by man-made objects, and the project area is not known to provide foraging habitat of any special importance. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in viability for Hood Canal harbor seals, and thus would not result in any adverse impact to the stock as a whole.

NMFS has determined that the impact of the previously described wharf rehabilitation project may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. No injury, serious injury, or mortality is anticipated as a result of the specified activity, and none will be authorized. Additionally, animals in the area are not expected to incur hearing impairment (i.e., TTS or PTS) or non-auditory

physiological effects. For pinnipeds, the absence of any major rookeries and only a few isolated and opportunistic haul-out areas near or adjacent to the project site means that potential takes by disturbance would have an insignificant short-term effect on individuals and would not result in population-level impacts. Similarly, for cetacean species the absence of any known regular occurrence adjacent to the project site means that potential takes by disturbance would have an insignificant short-term effect on individuals and would not result in population-level impacts. Due to the nature, degree, and context of behavioral harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

While the number of marine mammals potentially incidentally harassed would depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small relative to regional stock or population number, and has been mitigated to the lowest level practicable through incorporation of the mitigation and monitoring measures mentioned previously in this document. This activity is expected to result in a negligible impact on the affected species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that the proposed wharf construction project would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the activity would have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

No tribal subsistence hunts are held in the vicinity of the project area; thus, temporary behavioral impacts to individual animals would not affect any subsistence activity. Further, no population or stock level impacts to marine mammals are anticipated or authorized. As a result, no impacts to the availability of the species or stock to the Pacific Northwest treaty tribes are expected as a result of the activities. Therefore, no relevant subsistence uses of marine mammals are implicated by this action.

Endangered Species Act (ESA)

There are two ESA-listed marine mammal species with known occurrence in the project area: The eastern DPS of the Steller sea lion, listed as threatened, and the humpback whale, listed as endangered. Because of the potential presence of these species, the Navy requested a formal consultation with the NMFS Northwest Regional Office under section 7 of the ESA. NMFS' Office of Protected Resources also initiated formal consultation on its authorization of incidental take of Steller sea lions. These consultations are complete, with the determination that these activities are not likely to jeopardize the continued existence of the threatened Steller sea lion and are not likely to adversely affect humpback whales. These species do not have critical habitat in the action area.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, the Navy prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from the pile replacement project. We adopted that EA in order to assess the impacts to the human environment of issuance of an IHA to the Navy and signed a Finding of No Significant Impact (FONSI) on May 17, 2011. On the basis of new information related to the occurrence of marine mammals in the Hood Canal, the Navy prepared a supplement to that EA. We have adopted that supplemental EA and signed a new FONSI on July 11, 2012.

Determinations

We have determined that the impact of conducting the specific activities described in this notice and in the IHA request in the specific geographic region in Hood Canal, Washington may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. Further, this activity is expected to result in a negligible impact on the affected species or stocks of marine mammals. The provision requiring that the activity not have an unmitigable impact on the availability of the affected species or stock of marine mammals for subsistence uses is not implicated for this action.

Authorization

As a result of these determinations, we have issued an IHA to the Navy to conduct the described activities in the Hood Canal from the period of July 16, 2012, through February 15, 2013, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: July 13, 2012.

Helen M. Golde,

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

[FR Doc. 2012–17638 Filed 7–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Affirmation of Vertical Datum for Surveying and Mapping Activities for the Territory of Puerto Rico

AGENCY: National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: This Notice announces a decision by the Federal Geographic Data Committee's Federal Geodetic Control Subcommittee in accordance with the Office of Management and Budget, Circular A–16 (*http://www.whitehouse.gov/omb/circulars/a016/a016.html*), to affirm the Puerto Rico Vertical Datum of 2002 (PRVD02) as the official civilian vertical datum for surveying and mapping activities for the islands of Puerto Rico, Culebra, Mona and Vieques of the Commonwealth of Puerto Rico and to the extent practicable, legally allowable and feasible, require that all Federal agencies, with the exception of those with specific military related applications, using or producing vertical height information undertake an orderly transition to PRVD02.

DATES: Individuals or organizations wishing to submit comments on the adoption of PRVD02 as the official civilian vertical datum for the Territory of Puerto Rico, which includes the islands of Puerto Rico, Culebra, Vieques, and Mona, should do so by August 22, 2012.

ADDRESSES: Written comments should be sent to the attention of David Doyle, Chief Geodetic Surveyor, Office of the National Geodetic Survey, National Ocean Service (N/NGS2), 1315 East-West Highway, #8815, Silver Spring, Maryland, 20910, fax 301–713–4324, or via email *Dave.Doyle@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to David Doyle, Chief Geodetic Surveyor, National Geodetic Survey (N/NGS2), 1315 East-West Highway, #8815, Silver Spring, MD, 20910; Phone: (301) 713–3178.

SUPPLEMENTARY INFORMATION: The National Ocean Service (NOS), National Geodetic Survey (NGS), has completed the definition and implementation of PRVD02. PRVD02 supersedes all previously published height systems determined by other Federal surveying and mapping agencies on Puerto Rico, Culebra, Vieques and Mona, with the exception of those specifically related to tidal datums and/or military applications. PRVD02 heights are the result of a mathematical least squares general adjustment of the vertical control portion of the National Spatial Reference System (NSRS) and are derived from approximately 700 km of Double-Run, 1st-Oder, Class II geodetic leveling observations (650 km on Puerto Rico, 5 km on Culebra and 45 km on Vieques) undertaken specifically for this project. The basis for all PRVD02 heights is Local Mean Sea Level, for the National Tidal Datum Epoch 1983–2001, as determined by the NOS Center for Operational Oceanographic Products and Services (CO–OPS), and published as part of the National Water Level Observation Network (NWLON) for bench marks designated 975 5371 A TIDAL (PID TV1513) (1.334 meters), located at La Puntilla, San Juan Puerto Rico, 975 2235 D (PID DN8624) (0.973 meters), located on Culebra Island, 975 2695 A (PID DN8535) (1.962 meters), located at Esperanza, Vieques Island, and 975 9938 A (1.158 meters) (PID DN8596) on Mona Island. No leveling is planned for Mona Island; however this value serves as the datum definition for any further geodetic surveying that may be conducted there.

PRVD02 height information for individual geodetic control monuments is available in digital form, from the NGS Web site: *http://www.ngs.noaa.gov/cgi-bin/datasheet.prl.*

Dated: July 10, 2012.

Juliana P. Blackwell,

Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–17600 Filed 7–20–12; 8:45 am]

BILLING CODE 3510–JE–P

COMMODITY FUTURES TRADING COMMISSION

Meeting; Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission (CFTC).

ACTION: Notice of emergency meeting of technology advisory committee.

SUMMARY: The CFTC announces that on Thursday, July 26, 2012, the CFTC's Technology Advisory Committee (''TAC'') will hold an emergency public meeting at the CFTC's Washington, DC headquarters, from 10:00 a.m. to 4:00 p.m. The TAC will focus on possible technology solutions to, among other things, enable futures commission merchant customers, self-regulatory organizations and the CFTC to verify in near real-time the accuracy of the amount of funds held in customer segregated accounts.

DATES: The meeting will be held on July 26, 2012, from 10:00 a.m. to 4:00 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by July 19, 2012.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Written statements should be submitted to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, attention: Office of the Secretary. Please use the title ''Technology Advisory Committee'' in any written statement you may submit. Any statements submitted in connection with the committee meeting will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Laura Gardy, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5354.

SUPPLEMENTARY INFORMATION: This emergency meeting of the TAC is being held in response to the Commission's July 10, 2012 complaint against Peregrine Financial Group Inc. (PFG), a registered futures commission merchant (FCM), and its owner, Russell R. Wasendorf, Sr., alleging fraud by misappropriating customer funds, violations of customer fund segregation laws, and making false statements in financial statements filed with the Commission. The filing of the complaint was triggered by a National Futures Association (NFA) audit conducted earlier this month which revealed that despite PFG's representations that it held in excess of $220 million of customer funds, in fact, PFG held approximately $5.1 million.

This meeting will focus on technological solutions to providing the CFTC, self-regulatory organizations, and futures commission merchant customers direct access to customer segregated account information in order to help eliminate the possibility of theft and misappropriation of customer funds. The TAC will explore related technological and legal issues through panel presentations and open discussion. The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public who wish to listen to the meeting by telephone may do so by calling a toll-free telephone line to contact to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name and affiliation. Additionally, a video recording of the meeting will be published through a link on the CFTC's Web site.

All written submissions provided to the CFTC in any form will also be published on the Web site of the CFTC.

Domestic Toll Free: 1–866–844–9416.

International Toll: Under Related Documents to be posted on *www.cftc.gov.*

Conference ID: 8311506.

Call Leader Name: Michael Jones.

Pass Code/Pin Code: CFTC.

Authority: 5 U.S.C. app. 2 § 10(a)(2)

By the Commodity Futures Trading Commission.

Dated: July 17, 2012.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2012–17856 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Advisory Committee Meetings

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board 2012 Summer Study on Technology and Innovation Enablers for Superiority in 2030 will meet in closed session August 20–24, 2012, from 8:00 a.m. to 5:00 p.m. at the Charles Stark Draper Laboratory, Room 7137, Cambridge, MA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of

Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Board will discuss interim finding and recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

DATES: August 20–24, 2012, from 8:00 a.m. to 5:00 p.m.

ADDRESSES: The Charles Stark Draper Laboratory, Room 7137, Cambridge, MA.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Rose, Executive Officer, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via email at *debra.rose@osd.mil,* or via phone at (703) 571–0084.

SUPPLEMENTARY INFORMATION: In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2) and 41 CFR 102–3.155, the Department of Defense has determined that these Defense Science Board Quarterly meetings will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology and Logistics), with the coordination of the DoD Office of General Counsel, has determined in writing that all sessions of these meetings will be closed to the public because they will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(1) and (4).

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed in **FOR FURTHER INFORMATION CONTACT**; at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: July 18, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–17813 Filed 7–20–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: U.S. Department of Education, National Assessment Governing Board.

ACTION: Notice of Open and Closed Meeting Sessions.

SUMMARY: This notice sets forth the schedule and proposed agenda for the upcoming meeting of the National Assessment Governing Board (Board) and also describes the specific functions of the Board. Notice of this meeting is required under Section 10 (a) (2) of the Federal Advisory Committee Act. This notice is issued to provide members of the general public with an opportunity to attend and/or provide comments. Individuals who will need special accommodations in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than July 27, 2012. We will attempt to meet requests after this date but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: August 2–4, 2012.

Times:

August 2

Committee Meetings

Assessment Development Committee (ADC): Closed Session: 9:00 a.m.–3:30 p.m.; Open Session: 3:30 p.m.–4:00 p.m.

Executive Committee: Open Session: 4:30 p.m.–5:30 p.m.; Closed Session: 5:30 p.m.–6:00 p.m.

August 3

Full Board: Open Session: 8:30 a.m.–9:45 a.m.; Closed Session: 12:45 p.m.–1:45 p.m.; Open Session: 2:00 p.m.–4:00 p.m.

Committee Meetings

Assessment Development Committee (ADC): Open Session: 10:00 a.m.–11:00 a.m.; Closed Session: 11:00 a.m.–12:30 p.m.

Reporting and Dissemination Committee (R&D): Open Session: 10:00 a.m.–12:30 p.m.

Committee on Standards, Design and Methodology (COSDAM): Open Session: 10:00 a.m. –11:30 a.m.; Closed Session: 11:30 a.m.–12:30 p.m.

August 4

Nominations Committee: Closed Session: 7:30 a.m.–8:15 a.m.

Full Board: Open Session: 8:30 a.m.–12:00 p.m.

Location: St. Regis Hotel, 923 16th and K Streets NW., Washington DC 20006.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer, National Assessment Governing Board, 800 North Capitol Street NW., Suite 825, Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board (Board) is established under section 412 of the National Education Statistics Act of 1994, as amended.

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include the following: selecting subject areas to be assessed, developing assessment frameworks and specifications, developing appropriate student achievement levels for each grade and subject tested, developing standards and procedures for interstate and national comparisons, developing guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

The Governing Board's standing committees, the Assessment Development Committee and the Executive Committee, will convene on August 2, 2012. From 9:00 a.m. to 3:30 p.m., the Assessment Development Committee (ADC) will meet in closed session to review secure computer-based tasks and test materials for the NAEP 2014 Technology and Engineering Literacy Assessment at grade 8. During the closed session, ADC members will be provided specific test materials for review which are not yet available for release to the general public. Premature disclosure of these secure test items and materials would compromise the integrity and substantially impede implementation of the NAEP assessments and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 of the United States Code. Following this closed session, the Committee will meet in open session from 3:30 p.m. to 4:00 p.m. to discuss NAEP Preparedness Reporting.

The Executive Committee will meet on August 2, 2012 from 4:30 p.m. to 5:30 p.m. in open session and thereafter in closed session from 5:30 p.m. to 6:00 p.m. At 4:45 p.m. the Executive Committee will discuss the election of the Board Vice Chair for a term beginning October 1, 2012. During the closed session, the Executive Committee will receive and discuss the current procurement plans and independent

government cost estimates from the National Center for Education Statistics (NCES) staff for proposed item development, data collection, scoring and analysis, and reporting of National Assessment of Educational Progress (NAEP) results for 2013–2017, and their implications on future NAEP activities. The discussion of independent government cost estimates for the NAEP 2013–2017 contracts is necessary for ensuring that NAEP contracts meet congressionally mandated goals and adhere to Board policies on NAEP Assessments available at *www.nagb.org/policies.html.* This part of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program and would provide an advantage to potential bidders attending an open meeting. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

On August 3, 2012, the full Board will meet in open session from 8:30 a.m. to 9:45 a.m., followed by a closed session from 12:45 p.m. to 1:45 p.m. and thereafter in open session from 2:00 p.m. to 4:00 p.m.

From 8:30 a.m. to 8:45 a.m. on August 3, the Board will review and approve the August 2012 meeting agenda and meeting minutes from the May 2012 Board meeting, followed by the Chairman's remarks. From 8:45 a.m. to 9:15 a.m. the Board will receive a briefing on the Department of Defense Education Activity (DoDEA) and NAEP. From 9:15 a.m. to 9:45 a.m., the Executive Director of the Governing Board will provide a report to the Board, followed by updates from the Commissioner of the National Center for Education Statistics (NCES) and the Director of the Institute of Education Sciences (IES). Following these sessions, the Board will recess for Committee meetings from 10:00 a.m. to 12:30 p.m.

The Reporting and Dissemination Committee will meet in open session from 10:00 a.m. to 12:30 p.m. The Assessment Development Committee (ADC) will meet in open session from 10:00 a.m. to 11:00 a.m. and thereafter in closed sessions from 11:00 a.m. to 12:30 p.m. During the first closed session, the ADC will receive secure results from two NAEP studies: the NAEP Mathematics Knowledge and Skills Appropriate Study (KaSA) at grade 8 and results from the 2011 NAEP Grade 4 Computer-Based Writing Pilot. The briefing and discussions on these two special studies must be conducted in closed session because the ADC members will be provided with results which are under an NCES embargo and not yet available for release to the general public. Premature disclosure of these secure test items and materials would compromise the integrity and substantially impede implementation of the NAEP assessments and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 of the United States Code.

The Committee on Standards, Design and Methodology (COSDAM) will meet in open session from 10:00 a.m. to 11:30 a.m. and thereafter in closed session from 11:30 a.m. to 12:30 p.m. During the closed session, the Committee will receive two briefings: First, the results of a multi-stage adaptive assessment will be presented to brief the Committee on analyses of response time indicators of student engagement. The session will need to be closed in order to present information about differential response times associated with specific items included in the secure NAEP assessment. The Committee will be provided with secure results that have not been approved for release and therefore cannot be disclosed to the general public at this time. Premature disclosure of these secure data would significantly impede implementation of the NAEP assessments and reporting, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

During the second part of the closed session, NCES staff will provide a briefing on the procurement plans for conducting an evaluation of the NAEP achievement levels. COSDAM oversees the development of NAEP achievement levels. Members will discuss the subjects and grades to be included in the evaluation. This part of the meeting must be conducted in closed session because the solicitation has not been released. Public disclosure of this information would likely have an adverse financial effect on the NAEP program and would provide an advantage to potential bidders attending an open meeting. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

On August 3, 2012 from 12:45 p.m. to 1:45 p.m. the full Board will meet in closed session to receive and discuss results of the NAEP 2011 Writing Report Card at grades 8 and 12. The briefing will include secure items and embargoed assessment data and results that cannot be discussed in an open meeting prior to their official release. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 United States Code.

After the closed session, the Board will meet in the following open sessions: From 2:00 p.m. to 3:15 p.m., the Board will receive a briefing on the Common Core State Standards and Assessments from the PARCC Assessment Consortium and the Smarter Balanced Assessment Consortium. From 3:15 p.m. to 4:00 p.m., the Board will receive a briefing on the Race to the Top Implementation and NAEP. The August 3, 2012 session of the Board meeting is scheduled to adjourn at 4:00 p.m.

On August 4, 2012, the Nominations Committee will meet in closed session from 7:15 a.m. to 8:15 a.m. to discuss potential candidates for Board terms beginning October 1, 2013. The Committee discussions pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of section 552b(c) of Title 5 of the United States Code.

On August 4, from 8:30 a.m. to 10:30 a.m. the full Board will meet in open session to discuss its ongoing work on Making a Difference, Reporting NAEP 12th Grade Academic Preparedness Research, Parent Engagement, and NAEP and Common Core State Standards and Assessments. The Board will also discuss plans for the Board's 25th Anniversary. From 10:45 a.m. to 12:00 p.m. the Board will receive Committee reports and take action on Committee recommendations. The August 4, 2012 meeting is scheduled to adjourn at 12:00 p.m.

Detailed minutes of the meeting, including summaries of the activities of the closed sessions and related matters that are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street NW., Washington, DC, from 9:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday.

Electronic Access to This Document: You may 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) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–866–512–1800; or in the Washington, DC, area at (202) 512–0000.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: July 17, 2012.

Mary Crovo,

Deputy Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2012–17802 Filed 7–20–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board

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

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, August 16, 2012, 3:30 p.m.–4:00 p.m. (EST). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer (DFO) at the address or phone number listed below.

FOR FURTHER INFORMATION CONTACT: Gil Sperling, STEAB Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585. Phone number: (202) 287–1644.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Receive an update on the activities of the STEAB's Task Forces, review letters and resolutions transmitted to EERE on behalf of the STEAB, and provide an update to the Board on routine business matters and other topics of interest.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provisions will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at: *www.steab.org.*

Issued at Washington, DC, on July 13, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–17877 Filed 7–20–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Proposed Agency Information Collection

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Proposed Information Collection; Notice and Request for Comments.

SUMMARY: The EIA is soliciting comments on the proposed reinstatement, and three-year approval to the Form GC–859, ''Nuclear Fuel Data Survey'' (previously designated as the Form RW–859, ''Nuclear Fuel Data Survey'') that EIA is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*) required that the DOE enter into Standard Contracts with all generators or owners of spent nuclear fuel and high-level radioactive waste of domestic origin in 1983. This data collection evolved from an Appendix to this Standard Contract. Appendix B to the Standard Contract required that spent nuclear fuel discharge, storage, and projection information be collected annually. The annual version of the Form RW–859 survey was collected for the survey years from 1983 through 1995. Due to budgetary constraints, the survey was collected periodically for survey years 1998 and 2002, covering multi-year periods. The survey containing data as of December 31, 2002 was collected during 2003 and is the most recent data on spent nuclear fuel discharges and storage available within DOE. Lack of funding resulted in the form being discontinued in 2009. With the transfer of certain functions between Offices of the DOE and with the need to collect data for other Offices within DOE, the data collection authorization is now under the auspices of the Office of the General Counsel (GC) and the form will be redesignated as the Form GC–859.

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

DATES: Comments regarding this proposed information collection must be received by September 21, 2012. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Send comments to Marta Gospodarczyk. To ensure receipt of the comments by the due date, submission by Fax (202–586–3045) or email (*marta.gospodarczyk@eia.gov*) is recommended. The mailing address is Office of Electricity, Coal, Nuclear, and Renewables Analysis, EI–34, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585. Alternatively, Ms. Gospodarczyk may be contacted by telephone at 202–586–0527.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions

should be directed to Ms. Gospodarczyk at the address listed above. Additionally, forms and instructions may be viewed at *http://www.eia.gov/survey/#GC-859*.

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) OMB No. 1901–0287;

(2) *Information Collection Request Title:* Form GC–859, ''Nuclear Fuel Data Survey'';

(3) *Type of Request:* Reinstatement with changes of a previously approved collection for which approval has been discontinued;

(4a) *Purpose:*

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 et seq.) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 et seq.) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*) required that the DOE enter into Standard Contracts with all generators or owners of spent nuclear fuel and high-level radioactive waste of domestic origin. Form GC–859 evolved from an appendix to this Standard Contract.

Appendix B to the Standard Contract, originally titled ''Ten Year Discharge Forecast,'' became the Form RW–859 ''Nuclear Fuel Data Survey.'' The Form RW–859 survey was collected annually for survey years from 1983 through 1995. It was again collected for survey years 1998 and 2002, covering a multi-year period. The Form RW–859 was last collected in 2003 and was discontinued on November 10, 2009. The survey containing data as of December 31, 2002 was the last collected and is the most recent data on nuclear fuel discharges and storage available within EIA. The EIA has collected the Form RW–859 survey for the DOE Office of Civilian Radioactive Waste Management (OCRWM). In 2009, the Obama Administration determined that all funding for OCRWM be eliminated from the Federal budget, leading to the dissolution of the OCRWM. Many of the activities previously performed by the OCRWM had to continue in lieu of these political developments. Activities were transferred to the Office of Standard Contract Management, which has been created within the Office of the General Counsel (GC). Thus, the form number was changed from the Form RW–859 to the Form GC–859.

Form RW–859 Nuclear Fuel Data Survey form has been used to collect information on nuclear fuel use and spent fuel discharges from all utilities that operate commercial nuclear reactors and from all others that possess irradiated fuel from commercial nuclear reactors. The data collection provides stakeholders with detailed information concerning the spent nuclear fuel generated by the respondents (commercial utility generators of spent nuclear fuel and other owners of spent nuclear fuel within the U.S.). The new Form GC–859 will represent a change from previous versions of the Nuclear Fuel Data Survey. Recommendations developed by the president's Blue Ribbon Commission on America's Nuclear Energy Future have resulted in a need for more detailed data than that collected in previous surveys in order that personnel from the DOE Offices of Nuclear Energy (NE) and Environmental Management (EM), the national laboratories, and other data users can meet their research obligations.

Please refer to the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible non-statistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

(4b) *Proposed Changes to Information Collection:*

The current Form GC–859 redesign effort and associated changes has several fundamental goals and objectives:

—Maintain the fidelity of collection of the information required by stakeholders, by continuing to collect quality data on reactors, historical spent fuel discharges, projections of spent fuel discharges, pool capacities and inventories, and special fuel and non-fuel forms relevant to user needs;

—Simplify the process of data collection and validation, by enhancing the ability of respondents to provide data through electronic data transfer in any available format (spreadsheet, database, etc.);

The major changes to the Form GC–859 survey from the last data collection in 2003 include the following:

The EIA has modified the structure of the Form GC–859 survey into separate schedules for the collection of utility, reactor, fuel, storage facility, non-fuel, and greater than class C (GTCC) low-level radioactive waste data. The redesign increases the visibility of storage facilities as individual entities, clarifies the collection of data on special fuel forms and non-fuel components, updates historical cycle assembly data, and collects new data on GTCC low-level waste.

Instructions for responding to each schedule of the survey form, along with appropriate references and definitions, have been moved into the schedules. Instructions were previously detailed in an Appendix to the survey form. Appropriate data from the Standard Contract has also been included within the form schedules. The new form allows for multiple contact personnel, so that respondents may choose to submit reactor and storage facility data separately. Drop-down menus have been added throughout the form to aid the respondents. The Glossary has been revised and expanded. Respondents to this data collection are provided with data submitted on previous Nuclear Fuel Data surveys so that they may update historical data. The DOE last collected the survey containing data as of December 31, 2002. Current respondents will be provided with this 2002 survey data to update. Additional data from prior versions of the form will also be supplied where appropriate. Respondents will be allowed to modify, update, or correct historical data or supply complete historical data in any readily available format.

The consolidation of all fuel data (metal content, enrichment, discharge burnup, cycle numbers and dates, fuel vendor, lattice type, assembly status code, storage location, special fuel forms) in a single survey schedule ensures consistent, non-repetitive data. Data on special fuel forms (consolidated fuel, fuel in canisters, fuel rods, fuel pieces) now supplements the basic fuel data, rather than being collected in separate sections as in previous surveys.

A major change to the spent fuel data is that respondents are no longer required to report assembly type codes for every discharged assembly. Previous surveys contained an Appendix of almost 300 different assembly codes from which the respondent had to choose, based on assembly manufacturer, design considerations, and characteristics. Respondents are now required to only report manufacturer and lattice (array) type, greatly reducing the time required to fill out this section.

The fuel section now includes a requirement to collect complete fuel cycle history for every discharged assembly. Previously collected fuel data included fresh fuel assembly insertions and spent fuel discharges, so much of this historical data is already available and will be provided to the respondents.

Data collection for pool storage and dry storage has been consolidated from two sections on the Form RW–859 survey to one on the Form GC–859 survey. Previous requirements to supply information on individual assemblies stored at all storage sites has been replaced by the addition of a column for storage site identifier in the fuel data section. A new requirement to report assemblies in multi-canister dry storage modules has been added.

Non-fuel components data collection has been moved to a separate schedule. Based on discussions with industry personnel and comments submitted on previous surveys, data will now be collected by storage location: Components that are an integral part of an assembly, components stored in a single-element canister or container, and components stored separate from an assembly and uncanistered in the storage pool. Data on non-fuel components integral to an assembly are being collected for the first time.

Another new addition to the Form GC–859 is a schedule for greater than class C (GTCC) low level radioactive waste (LLRW). This schedule will collect both packaged and projected inventory information for activated metals and process waste. This schedule is not mandatory, and only respondents who have readily available access to this data should report.

Approximately 20 questions, tables, or sections have been deleted from this version of the form. Data on reinserted fuel, canister closure, and shipments and transfers of discharged fuel have been removed in the new version of the survey. The revised form eliminates the collection of duplicative information.

A three-year clearance is being requested for this survey since no definitive plans have been made on when the next Form GC–859 survey will be collected. Respondents will be notified prior to the next data collection.

(5) *Estimated Number of Survey Respondents:* 138 Surveys are expected to be filed for approximately 138 facilities. These facilities include 104 operating nuclear reactors, 16 permanently shut down nuclear reactors, 8 storage facilities, and 10 research/test reactors. Respondents other than operating nuclear reactors are only required to respond to the sections of the survey applicable to them;

(6) *Annual Estimated Number of Total Responses:* Current plans call for the survey to be collected once every five years, so respondents will only file the Form GC–859 once over the three-year approval period, for an average of ⅓ of a response per year from each respondent. Dividing the numbers in (5) by 3, EIA estimates an average of 34.667 responses annually from operating nuclear reactors, 5.333 responses annually from permanently shut down nuclear reactors, 2.667 responses annually from storage facilities, and 3.333 responses annually from research/test stations. For the three-year approval period, the annual estimate is 46 responses;

(7) *Estimated Number of Annual Burden Hours:* 3106.7. The estimate by respondent category is 80 hours per response for operating nuclear reactors, 40 hours per response for permanently shut down nuclear reactors, and 20 hours per response for storage facilities and research/test reactors. The total of 3106.7 hours per year is obtained by multiplying the burden per response for each category by the corresponding annual responses in (6) and adding the burden estimates for each category.

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0; EIA estimates that there are no additional costs to respondents associated with the burden hours.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified at 15 U.S.C. 772(b); Section 302 of the Nuclear Waste Policy Act of 1982, codified at 42 U.S.C. 10101.

Issued in Washington, DC, on July 11, 2012.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2012–17876 Filed 7–20–12; 8:45 am]

BILLING CODE 6450–01–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: EC12–117–000.
Applicants: Mission Funding Alpha.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Mission Funding Alpha.
Filed Date: 7/13/12.
Accession Number: 20120713–5194.
Comments Due: 5 p.m. ET 8/3/12.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–87–000.
Applicants: Los Vientos Windpower IA, LLC.
Description: Self-Certification of Exempt Wholesale Generator of Los Vientos Windpower IA, LLC.
Filed Date: 7/13/12.
Accession Number: 20120713–5139.
Comments Due: 5 p.m. ET 8/3/12.

Docket Numbers: EG12–88–000.
Applicants: Los Vientos Windpower IB, LLC.
Description: Self-Certification of Exempt Wholesale Generator Status of Los Vientos Windpower IB, LLC.
Filed Date: 7/13/12.
Accession Number: 20120713–5140.
Comments Due: 5 p.m. ET 8/3/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2002–001.
Applicants: PJM Interconnection, L.L.C.
Description: Errata to Original Service Agreement No. 3327 Queue Position T126 to be effective 5/11/2012.
Filed Date: 7/13/12.
Accession Number: 20120713–5171.
Comments Due: 5 p.m. ET 8/3/12.

Docket Numbers: ER12–2241–000.
Applicants: Carolina Power & Light Company.
Description: Service Agreement No. 134 under Carolina Power and Light Company Joint OATT to be effective 7/1/2012.
Filed Date: 7/13/12.
Accession Number: 20120713–5151.
Comments Due: 5 p.m. ET 8/3/12.

Docket Numbers: ER12–2242–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: SA 2455 DEGS Wind-METC J056 GIA 7–13–2012 to be effective 7/14/2012.

Filed Date: 7/13/12.
Accession Number: 20120713–5173.
Comments Due: 5 p.m. ET 8/3/12.

Docket Numbers: ER12–2243–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Notice of Cancellation.
Filed Date: 7/13/12.
Accession Number: 20120713–5179.
Comments Due: 5 p.m. ET 8/3/12.

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: July 16, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17821 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–118–000.
Applicants: Hardee Power Partners Limited.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Hardee Power Partners Limited.
Filed Date: 7/16/12.
Accession Number: 20120716–5044.
Comments Due: 5 p.m. ET 8/6/12.

Docket Numbers: EC12–119–000.
Applicants: FirstEnergy Generation Corp., American Transmission Systems, Incorporation.
Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Action and Request for Waivers of FirstEnergy Generation Corp. and American Transmission Systems, Incorporated.
Filed Date: 7/16/12.
Accession Number: 20120716–5102.
Comments Due: 5 p.m. ET 8/6/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2763–003; ER10–2732–003; ER10–2733–003; ER10–2734–003; ER10–2736–003; ER10–2737–003; ER10–2741–003; ER10–2749–003; ER10–2752–003.
Applicants: Bangor Hydro Electric Company.
Description: Notice of Changes in Status of Bangor Hydro Electric Company, et al.
Filed Date: 7/16/12.
Accession Number: 20120716–5085.
Comments Due: 5 p.m. ET 8/6/12.

Docket Numbers: ER10–2881–004; ER10–2882–004; ER10–2883–004; ER10–2884–004; ER10–2885–004; ER10–2641–004; ER10–2663–004; ER10–2886–004.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company, Southern Power Company, Gulf Power Company, Oleander Power Project, L.P., Southern Company—Florida LLC, Southern Turner Cimarron I, LLC.
Description: Notice of Non-Material Change in Status of Alabama Power Company, et al.
Filed Date: 7/16/12.
Accession Number: 20120716–5092.
Comments Due: 5 p.m. ET 8/6/12.

Docket Numbers: ER12–1630–000.
Applicants: California Independent System Operator Corporation.
Description: Order 755 Compliance Filing of the California Independent System Operator Corporation—response to Commission June 8 2012 letter.
Filed Date: 7/6/12.
Accession Number: 20120706–5126.
Comments Due: 5 p.m. ET 7/30/12.

Docket Numbers: ER12–1877–001.
Applicants: ISO New England Inc., Massachusetts Electric Company.
Description: OATT Attachment F Technical Corrections to be effective 6/1/2012.
Filed Date: 7/16/12.
Accession Number: 20120716–5038.
Comments Due: 5 p.m. ET 7/23/12.

Docket Numbers: ER12–1999–001.
Applicants: MidAmerican Energy Company.
Description: Succession Agreement—Revised Certificate of Concurrence to be effective 2/21/2012.
Filed Date: 7/16/12.
Accession Number: 20120716–5031.
Comments Due: 5 p.m. ET 8/6/12.

Docket Numbers: ER12–2244–000.
Applicants: Intelligen Resources, L.P.
Description: Petition for Market-Based Rate Authority to be effective 7/17/2012.
Filed Date: 7/16/12.
Accession Number: 20120716–5048.
Comments Due: 5 p.m. ET 8/6/12.

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: July 16, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17822 Filed 7–20–12; 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: RP12–862–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Devon 34694–38 Amendment to neg rate agmt to be effective 7/12/2012.
Filed Date: 7/11/12.
Accession Number: 20120711–5077.
Comments Due: 5 p.m. ET 7/23/12.

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 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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 July 12, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2012–17852 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–84–000]

MPS Customer Group v. Maine Public Service Company; Notice of Complaint

Take notice that on July 13, 2012, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e, and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission); 18 CFR 385.206, MPS Customer Group (Complainant) filed a formal complaint against Maine Public Service Company (MPS or Respondent) seeking an order to reduce the return on equity (ROE) used in calculating formula rates for transmission service under the MPS Open Access Transmission Tariff (OATT). Complainant asserts that the current ROE under the OATT is unjust and unreasonable.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email F*ERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on August 2, 2012.

Dated: July 16, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–17773 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2253–000]

Public Power & Utility of Maryland, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Public Power & Utility of Maryland, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is August 7, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17820 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2252–000]

Public Power, LLC of Pennsylvania; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Public Power, LLC of Pennsylvania's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal

Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is August 7, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17827 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2251–000]

Public Power & Utility of NY, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Public Power & Utility of NY, Inc.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is August 7, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17826 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2250–000]

Public Power & Utility of New Jersey, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Public Power & Utility of New Jersey, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is August 7, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17825 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2244–000]

Intelligen Resources, L.P.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Intelligen Resources, L.P.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is August 7, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–17824 Filed 7–20–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9703–5]

Proposed CERCLA Section 122(h) Settlement Relating to the Jewett White Lead Company Superfund Site (''Site''), Located on Staten Island, Richmond County, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed Administrative Settlement Agreement (''Agreement'') pursuant to Section 122(h)(1) of CERCLA, and the inherent settlement authority of the United States with NL Industries, Inc. (the ''Settling Party''). Settling Party is a potentially responsible party, pursuant to Section 107(a) of CERCLA, and thus is potentially liable for response costs incurred or to be incurred at or in connection with the Jewett White Lead Company Superfund Site (''Site''), located on Staten Island, Richmond County, New York. Based upon Settling Party's commitment to provide this funding to EPA, as set forth in the Agreement, EPA intends to perform or finance this removal action. Within 10 days after the effective date, Settling Party agrees to pay to EPA $1,374,000. Thereafter, Settling Party shall pay an additional $176,000 six months after the effective date of the Agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Agreement.

SUPPLEMENTARY INFORMATION: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed Administrative Settlement Agreement (''Agreement'') pursuant to Section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), and the inherent settlement authority of the United States with NL Industries, Inc. (the ''Settling Party''). Settling Party is a potentially responsible party, pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), and thus is potentially liable for response costs incurred or to be incurred at or in connection with the Jewett White Lead Company Superfund Site (''Site''), located on Staten Island, Richmond County, New York. The Site includes two parcels of land separated by an active roadway, one located at 2000–2012 Richmond Terrace, and the other at 2015 Richmond Terrace, in the Port Richmond area of the north shore of Staten Island, New York. EPA and Settling Party seek through this proposed Agreement to enable Settling Party to finance the performance of EPA's documented removal action of excavation and off-site disposal of contaminated soils at the 2000–2012 Richmond Terrace portion of the Site. Based upon Settling Party's commitment to provide this funding to EPA, as set forth in the Agreement, EPA intends to perform or finance this removal action. Within 10 days after the effective date, Settling Party agrees to pay to EPA $1,374,000. Thereafter, Settling Party shall pay an additional $176,000 six months after the effective date of the Agreement. The proposed Agreement includes a covenant by EPA not to sue or take administrative action against Settling Party pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, with regard to

this specific removal action which EPA intends to perform at the 2000–2012 Richmond Terrace portion of the Site. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Agreement. EPA will consider all comments received and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations that indicate that the proposed Agreement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2 offices, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before August 22, 2012.

ADDRESSES: The Agreement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Jewett White Lead Company Superfund Site (''Site''), located on Staten Island, Richmond County, New York. Index No. II–CERCLA–02–2012–2016. To request a copy of the Agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Henry Guzmán, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: 212–637–3166.

Dated: July 3, 2012.

Walter E. Mugdan,

Director, Emergency and Remedial Response Division, Region 2.

[FR Doc. 2012–17886 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9703–7]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by *Southern Alliance for Clean Energy, et al.* v. *EPA,* No. 1:12–cv–00338–ESH (D.D.C). On or about March 2, 2012, Southern Alliance for Clean Energy, et al. filed a complaint that EPA failed to perform its nondiscretionary duty pursuant to section 505(b)(2) of the Act, to grant or deny, within 60 days after it was filed, a petition (''Shawnee Petition'') requesting that EPA object to a proposed title V operating permit for the Tennessee Valley Authority's Fossil Plant issued by the Commonwealth of Kentucky (''Shawnee Permit''). Under the terms of the proposed consent decree, EPA would be required to sign its response to Plaintiffs' petition by September 1, 2012.

DATES: Written comments on the proposed consent decree must be received by August 22, 2012.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2012–0571, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Gretchen Graves, Esq., Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–5581; fax number (202) 564–5603; email address: *graves.gretchen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would settle Plaintiffs' claims in a title V deadline suit concerning a petition to object to a permit issued by the Kentucky Department for Air Quality for the Tennessee Valley Authority's Shawnee Fossil Plant. The proposed consent decree would require EPA to sign its response to Plaintiffs' petition by September 1, 2012. Once EPA has signed its response, EPA would be required to promptly deliver notice of its response to the Office of the Federal Register for publication. Under the proposed consent decree, once EPA has met these obligations, and any claims by Plaintiffs for costs of litigation have been resolved pursuant to the process provided in the proposed consent decree, the court would dismiss the suit with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

Direct your comments to the official public docket for this action under Docket ID No. EPA–HQ–OGC–2012–0571 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information

whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: July 16, 2012.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2012–17901 Filed 7–20–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required b y the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502 -3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 22, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0168.

Title: Section 43.43, Reports of Proposed Changes in Depreciation Rates.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 24 respondents; 24 responses.

Estimated Time per Response: 250 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 152, 154, 161, 201–205 and 218–220 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,000 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: Respondents are not being asked to submit confidential information to the Commission. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection for renewal to the Office of Management and Budget during this comment period. The Commission has adjusted the cost estimate. This increase in costs is due to an increase in the Commission's filing fee.

Section 43.43 establishes the reporting requirements for depreciation prescription purposes. Communication common carriers with annual operating revenues of $138 million or more that the Commission has found to be dominant must file information specified in Section 43.43 before making any change in depreciation rates applicable to their operating plant.

Section 220 of the Communications Act of 1934, as amended, also allows the Commission, in its discretion, to prescribe the form of any and all accounts, records, and memoranda to be kept by carriers subject to the Act, including the accounts, records and

memoranda of the movement of traffic, as well as receipts and expenditures of moneys. Carriers are required to file four summary exhibits along with the underlying data used to generate them, and must provide the depreciation factors (i.e., life, salvage, curve shape, depreciation reserve) required to verify the calculation of the carrier's depreciation expenses and rates. Mid-sized carriers are no longer required to file theoretical reserve studies. Certain price cap incumbent LECs in certain instances may request a waiver of the depreciation rates.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–17891 Filed 7–20–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: July 16, 2012.

Pamela Johnson,

Regulatory Editing Specialist, Federal Deposit Insurance Corporation.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10449	Glasgow Savings Bank	Glasgow	MO	7/13/2012.

[FR Doc. 2012–17809 Filed 7–20–12; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027; Docket 2012–0076; Sequence 26]

Federal Acquisition Regulation; Information Collection; Value Engineering Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension of a previously 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 concerning Value Engineering Requirements.

Public comments are particularly invited on: Whether this collection of information is necessary; 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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0027, Value Engineering Requirements, 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 9000–0027, Value Engineering Requirements.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0027, Value Engineering Requirements'' 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 9000–0027, Value Engineering Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0027, Value Engineering Requirements, 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: Mr. Curtis E. Glover, Sr., Procurement Analyst, Contract Policy Division, GSA, (202) 501–1448 or email at *Curtis.glover@gsa.gov.*

A. Purpose

Value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECPs), and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Respondents: 400.

Responses per Respondent: 4.
Annual Responses: 1,600.
Hours per Response: 30.
Total Burden Hours: 48,000.
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. 9000–0027, Value Engineering Requirements, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17837 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 40; OMB Control No. 9000–0059]

Federal Acquisition Regulation; Information Collection; North Carolina Sales Tax Certification

AGENCY: 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.

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 a reinstatement of a previously approved information collection requirement concerning North Carolina sales tax certification.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0059, North Carolina Sales Tax Certification, 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 9000–0059, North Carolina Sales Tax Certification''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0059, North Carolina Sales Tax Certification'' 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 9000–0059, North Carolina Sales Tax Certification.

Instructions: Please submit comments only and cite Information Collection 9000–0059, North Carolina Sales Tax Certification, 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: Edward Chambers, Procurement Analyst, Office of Acquisition Policy, GSA (202) 501–3221 or email *Edward.chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The North Carolina Sales and Use Tax Act authorizes counties and incorporated cities and towns to obtain each year from the Commissioner of Revenue of the State of North Carolina a refund of sales and use taxes indirectly paid on building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure in North Carolina. However, to substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must secure from the contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales or use taxes paid. Similar certified statements by subcontractors must be obtained by the general contractor and furnished to the Government. The information is used as evidence to establish exemption from State and local taxes.

B. Annual Reporting Burden

Respondents: 424.
Responses per Respondent: 1.
Annual Responses: 424.
Hours per Response: .17.
Total Burden Hours: 72.
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. 9000–0059, North Carolina Sales Tax Certification, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17844 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 45; OMB Control No. 9000–0082]

Federal Acquisition Regulation; Information Collection; Economic Purchase Quantity—Supplies

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.

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 concerning Economic Purchase Quantity—Supplies.

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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0082, Economic Purchase Quantity—Supplies, 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 9000–0082 Economic Purchase Quantity—Supplies''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0082 Economic Purchase Quantity—Supplies'' 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 9000–0082, Economic Purchase Quantity—Supplies.

Instructions: Please submit comments only and cite Information Collection 9000–0082, Economic Purchase Quantity—Supplies, 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: Mr. Michael Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy, (202) 208–4949 or email *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The provision at 52.207–4, Economic Purchase Quantity—Supplies, invites offerors to state an opinion on whether the quantity of supplies on which bids, proposals, or quotes are requested in solicitations is economically advantageous to the Government. Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to (1) recommend an economic purchase quantity, showing a recommended unit and total price, and (2) identify the different quantity points where significant price breaks occur. This information is required by 10 U.S.C. 2384a and 41 USC 3310.

B. Annual Reporting Burden

Respondents: 1,524.
Responses per Respondent: 25.
Annual Responses: 38,100.
Hours per Response: .83.
Total Burden Hours: 31,623.
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. 9000–0082, Economic Purchase Quantity—Supplies, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17834 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0159; Docket 2012–0076; Sequence 17]

Federal Acquisition Regulation; Information Collection; Central Contractor Registration

AGENCY: 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.

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 concerning the Central Contractor Registration database.

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 September 21, 2012

ADDRESSES: Submit comments identified by Information Collection 9000–0159, Central Contractor Registration, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 9000–0159, Central Contractor Registration'' under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0159, Central Contractor Registration''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0159, Central Contractor Registration'' 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 9000–0159, Central Contractor Registration.

Instructions: Please submit comments only and cite Information Collection 9000–0159, Central Contractor Registration, 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: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Governmentwide Policy, GSA, (202) 501–1448, or via email at *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) Subpart 4.11 prescribes policies and procedures for requiring contractor registration in the Central Contractor Registration (CCR) database. The CCR is the primary vendor database for the U.S. Federal Government. CCR collects,

validates, stores, and disseminates data in support of agency acquisition missions.

Both current and potential Federal Government vendors are required to be registered in CCR in order to be awarded contracts by the Federal Government. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration at least once per year to maintain an active status.

CCR validates the vendor information and electronically shares the secure and encrypted data with Federal agency finance offices to facilitate paperless payments through electronic funds transfer. Additionally, CCR shares the data with Federal Government procurement and electronic business systems.

B. Annual Reporting Burden

The estimated annual total burden hours are 87,532. This is a slight decrease from the annual burden hours previously published in the **Federal Register** at 74 FR 31035, on June 29, 2009. The previous estimate derived from the number of large and small business contractors who received new awards or orders of $25K or more in fiscal year 2004. This latest estimate is derived from a weighted average of the hours of the unique vendors, newly and previously registered in CCR, who received contract awards in fiscal year 2011.

Respondents: 193,397.

Responses per Respondent: 1.

Annual Responses: 193,397.

Hours per Response: .4526.

Total Burden Hours: 87,532.

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 Number 9000–0159, Central Contractor Registration, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17846 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0094; Docket 2012–0076; Sequence 21]

Federal Acquisition Regulation; Information Collection; Debarment and Suspension

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

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 concerning debarment and suspension.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0094, Debarment and Suspension, 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 9000–0094, Debarment and Suspension''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0094, Debarment and Suspension'' 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 9000–0094, Debarment and Suspension.

Instructions: Please submit comments only and cite Information Collection 9000–0094, Debarment and Suspension, 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. Patricia Corrigan, Procurement Analyst, Office of Acquisition Policy, at (202) 208–1963 or via email at *Patricia.Corrigan@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm, its principals, or subcontractors, have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by a Government contracting officer in making a responsibility determination. FAR 52.209–5 and 52.212–3(h), Certification Regarding Responsibility Matters, and FAR 52.209–6, Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment, require the disclosure of this information.

B. Annual Reporting Burden

Respondents: 162,000.
Responses Per Respondent: 4.
Annual Responses: 648,000.
Hours Per Response: 0.083.
Total Burden Hours: 53,784.
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. 9000–0094, Debarment and Suspension, in all correspondence.

Dated: July 12, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17857 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 41; OMB Control No. 9000–0070]

Information Collection; Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding the extension of a previously 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 concerning Payments.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0070, Payments, 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 9000–0070, Payments''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0070, Payments'' 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 9000–0070, Payments.

Instructions: Please submit comments only and cite Information Collection 9000–0070, Payments, 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: Edward Chambers, Procurement Analyst, Office of Acquisition Policy, GSA at (202) 501–3221 or Email at *Edward.chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Firms performing under Federal contracts must provide adequate documentation to support requests for payment under these contracts. The documentation may range from a simple invoice to detailed cost data. The information is usually submitted once, at the end of the contract period or upon delivery of the supplies, but could be submitted more often depending on the payment schedule established under the contract (see FAR 52.232–1 through 52.232–11). The information is used to determine the proper amount of payments to Federal contractors.

B. Annual Reporting Burden

Respondents: 80,000.

Responses per Respondent: 120.

Total Responses: 9,600,000.

Hours per Response: .025.

Total Burden Hours: 240,000.

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. 9000–0070, Payments, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17866 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 32: OMB Control No. 9000–0078]

Federal Acquisition Regulation; Information Collection; Make-or-Buy Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an information collection requirement for 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 concerning Make-or-Buy Program.

Public comments are particularly invited on: Whether this collection of information is necessary; 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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0078, Make-or-Buy Program, 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 9000–0078, Make-or-Buy Program''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0078, Make-or-Buy Program'' 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 9000–0078, Make-or-Buy Program.

Instructions: Please submit comments only and cite Information Collection 9000–0078, Make-or-Buy Program, 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: Mr. Edward Loeb, Procurement Analyst, Contract Policy Division, GSA, (202) 501–0650 or via email at *edward.loeb@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Price, performance, and/or implementation of socio-economic policies may be affected by make-or-buy decisions under certain Government prime contracts. Accordingly, FAR 15.407–2, Make-or-Buy Programs—

(i) Sets forth circumstances under which a Government contractor must submit for approval by the contracting officer a make-or-buy program, i.e., a written plan identifying major items to be produced or work efforts to be performed in the prime contractor's facilities and those to be subcontracted;

(ii) Provides guidance to contracting officers concerning the review and approval of the make-or-buy programs; and

(iii) Prescribes the contract clause at FAR 52.215–9, Changes or Additions to Make-or-Buy Programs, which specifies the circumstances under which the contractor is required to submit for the contracting officer's advance approval a notification and justification of any proposed change in the approved make-or-buy program.

The information is used to assure the lowest overall cost to the Government for required supplies and services.

B. Annual Reporting Burden

Respondents: 150.
Responses per Respondent: 3.
Total Responses: 450.
Hours per Response: 8.
Total Burden Hours: 3,600.

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. 9000–0078, Make-or-Buy Program, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17865 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0130; Docket 2012–0076; Sequence 14]

Federal Acquisition Regulation; Information Collection; Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

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 concerning the Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0130, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 9000–0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate'' under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0130, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate'' 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 9000–0130, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.

Instructions: Please submit comments only and cite Information Collection 9000–0130, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, 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. Cecelia Davis, Procurement Analyst, Contract Policy Division, GSA, (202) 219–0202 or via email at *cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the Free Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers over a certain dollar limitation to supply an eligible product without regard to the restrictions of the Buy American Act. FAR provision 52.225—4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, requires an offeror to certify that the offered products are domestic end products and Free Trade Agreement (FTA) end products. The provision also requires an offeror to identify foreign end products.

Contracting officers use the information to give domestic and FTA country end products a preference during the evaluation of offers. Items having components of unknown origin are considered to have been mined,

produced, or manufactured outside the United States.

B. Annual Reporting Burden

Respondents: 1,083.
Responses per Respondent: 5.
Annual Responses: 5,415.
Hours per Response: .117.
Total Burden Hours: 634.

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. 9000–0130, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17862 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 35: OMB Control No. 9000–0095]

Federal Acquisition Regulation; Information Collection; Commerce Patent Regulations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding the extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, 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 concerning Department of Commerce patent regulations.

Public comments are particularly invited on: Whether this collection of information is necessary; 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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0095, Commerce Patent Regulations, 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 9000–0095, Commerce Patent Regulations''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0095, Commerce Patent Regulations'' 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 9000–0095, Commerce Patent Regulations.

Instructions: Please submit comments only and cite Information Collection 9000–0095, Commerce Patent Regulations, 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: Mr. Edward Loeb, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 501–0650 or email *Edward.loeb@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Subpart 27.3, Patents Rights under Government Contracts, implements the Department of Commerce regulation (37 CFR 401) based on chapter 18 of title 35 U.S.C., Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies dated February 18, 1983, and Executive Order 12591, Facilitating Access to Science and Technology dated April 10, 1987. Under the subpart, a contracting officer may insert clauses 52.227–11, Patent Rights-Ownership by the Contractor, or 52.227–13, Patent Rights-Ownership by the Government, in solicitations and contracts pertaining to inventions made in the performance of experimental, developmental, or research work.

In accordance with the clauses, a Government contractor must report all subject inventions to the contracting officer, submit a disclosure of the invention, and identify any publication, or sale, or public use of the invention (52.227–11(c), 52.227–13(e)(1)).

The contracting officer may modify 52.227–11(e) or otherwise supplement the clause to require contractors to submit periodic or interim and final reports listing subject inventions (27.303(b)(2)(i) and (ii)). In order to ensure that subject inventions are reported, the contractor is required to establish and maintain effective procedures for identifying and disclosing subject inventions (52.227–11, Alternate IV; 52.227–13(e)(1)). In addition, the contractor must require his employees, by written agreements, to disclose subject inventions (52.227–11(e)(2); 52.227–13(e)(4)). The contractor also has an obligation to utilize the subject invention, and agree to report, upon request, the utilization or efforts to utilize the subject invention (27.302(e); 52.227–11(f)).

B. Annual Reporting Burden

Respondents: 1,200.

Responses per Respondent: 9.75.

Total Responses: 11,700.

Hours per Response: 3.9.

Total Burden Hours: 45,630.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration (GSA), Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17859 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076; Sequence 43; OMB Control No. 9000–0073]

Federal Acquisition Regulation; Information Collection; Advance Payments

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.

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 concerning advance payments.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (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 September 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0073 Advance Payments 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 9000–0073, Advance Payments.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0073, Advance Payments'' 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 9000–0073, Advance Payments.

Instructions: Please submit comments only and cite Information Collection 9000–0073, Advance Payments, 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: Mr. Edward Chambers, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 501–3221 or email *edward.chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Advance payments may be authorized under Federal contracts and subcontracts. Advance payments are the least preferred method of contract financing and require special determinations by the agency head or designee. Specific financial information about the contractor is required before determinations by the agency head or designee. Specific financial information about the contractor is required before such payments can be authorized (see FAR 32.4 and 52.232–12). The information is used to determine if advance payments should be provided to the contractor.

B. Annual Reporting Burden

Respondents: 500.

Responses per Respondent: 1.

Annual Responses: 500.

Hours per Response: 1.

Total Burden Hours: 500.

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. 9000–0073, Advance Payments, in all correspondence.

Dated: July 10, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–17853 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Docket 2012–0001; Sequence 12: OMB Control No. 3090–0228]

Information Collection; Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Civil Rights, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement regarding nondiscrimination in Federal financial assistance programs. This information is needed to facilitate nondiscrimination in GSA's Federal Financial Assistance Programs, consistent with Federal civil rights laws and regulations that apply to recipients of Federal financial assistance.

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; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: September 21, 2012.

FOR FURTHER INFORMATION CONTACT: Evelyn Britton, Director, External Programs Division, Office of Civil Rights, at telephone (202) 603–1645 or via email to *evelyn.britton@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, 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 3090–0228, Nondiscrimination in Federal Financial Assistance Programs''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs'' 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 3090–0228, Nondiscrimination in Federal Financial Assistance Programs.

Instructions: Please submit comments only and cite Information Collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, 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

The General Services Administration (GSA) has mission responsibilities related to monitoring and enforcing compliance with Federal civil rights laws and regulations that apply to Federal Financial Assistance programs administered by GSA. Specifically, those laws provide that no person on the ground of race, color, national origin, disability, sex or age shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA. These mission responsibilities generate the requirement to request and obtain certain data from recipients of Federal surplus property for the purpose of determining compliance, such as the number of individuals, based on race and ethnic origin, of the recipient's eligible and actual serviced population; race and national origin of those denied participation in the recipient's program(s); non-English languages encountered by the recipient's program(s) and how the recipient is addressing meaningful access for individuals that are Limited English Proficient; whether there has been complaints or lawsuits filed against the recipient based on prohibited discrimination and whether there has been any findings; and whether the recipient's facilities are accessible to qualified individuals with disabilities.

B. Annual Reporting Burden

Respondents: 1,200.
Responses per Respondent: 1.
Total Responses: 1200.
Hours per Response: 2.
Total Burden Hours: 2,400.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVPR), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, in all correspondence.

Dated: July 9, 2012.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2012–17833 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[Notice–MG–2012–05; Docket 2012–0002; Sequence 13]

Office of Federal High-Performance Green Buildings; Federal Buildings Personnel Training Act; Notification of Release of Core Competencies and Recommended Curriculum

AGENCY: Office of Federal High-Performance Green Buildings, Office of Governmentwide Policy, GSA.

ACTION: Notice of release of core competencies and recommended curriculum.

SUMMARY: The General Services Administration, Office of Governmentwide Policy, is providing notification of the release of the core competencies and recommended curriculum for Federal personnel involved in facilties operations and management.

DATES: July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. John Simpson, Program Manager, Federal Buildings Personnel Training Act, Office of Federal High-Performance Green Buildings, Office of Governmentwide Policy, General Services Administration, 1275 First Street NE., Room 634, Washington, DC 20417; telephone at 951–302–4463, or via email at *john.simpson@gsa.gov.*

SUPPLEMENTARY INFORMATION: The Core Competencies and the Curriculum are available for download from the Office of Federal High-Performance Green Building Web site Library at—*http://www.gsa.gov/portal/content/117699.*

The Facilities Management Institute, *FMI.innovations.gov (available 08/01/2012)*, is a public facing ''cloud institute'' developed to implement the requirements of the Federal Buildings Personnel Training Act of 2010 (Pub. L. 111–308). It has been structured to embody the principles of transparency, participation and collaboration. No membership will be required for *FMI.innovations.gov (available 08/01/2012)*, an open site where the public, Federal agencies, professional societies, industry associations, apprenticeship training providers and academic institutions will come together to collaborate on every aspect of reducing the cost of the Federal Government while increasing its productivity.

Dated: June 21, 2012.

John C. Thomas,

Deputy Director, Office of Committee and Regulatory Management, Office of Governmentwide Policy, General Services Administration.

[FR Doc. 2012–17916 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–27–P

GENERAL SERVICES ADMINISTRATION

[Notice–QDA–2012–01; Docket No. 2012–0002; Sequence 17]

Multiple Award Schedule (MAS) Program Continuous Open Season-Operational Change

AGENCY: Federal Acquisition Service, GSA.

ACTION: Notice with a request for comments.

SUMMARY: The General Services Administration (GSA), Federal Acquisition Service (FAS) intends to institute a Demand Based Model (DBM) designed to assess and improve the performance of the Multiple Award Schedule (MAS) contracts operated by GSA. GSA is proposing this operational change to enhance the performance of and modernize the MAS program in three key program areas: Small business viability, operational efficiency, and cost control. The DBM will realign suppliers under the MAS program with current Federal marketplace demands. This will result in directing suppliers, including small businesses, to where government procurement needs are; thereby having a supplier base more focused on providing innovative solutions to address the procurement needs of the government, especially under these current fiscal challenges. Operational efficiencies and cost control thus realized will restore and maintain the MAS program's value to Federal agencies as a streamlined acquisition vehicle through reduction in duplicative contracts, better contract administration support by GSA as well as other increased levels of customer support from GSA. Additionally, DBM is intended to benefit participating members of industry, including small businesses, by improving processing time for awards, modifications and

contract options, and improving supplier relationship management. Implementing the DBM will allow GSA and suppliers to focus on the ongoing modernization of the Schedules aimed at adding innovative solutions, improving pricing and simplifying the buying experience.

DATES: This change in operations will become effective September 21, 2012.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before August 22, 2012. This will allow GSA sufficient time to consider the comments prior to the effective date of this notice.

ADDRESSES: Submit comments in response to Notice—QDA–2012–01 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice–QDA–2012–01''. Select the link ''Submit a Comment'' that corresponds with ''Notice–QDA–2012–01.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Notice–QDA–2012–01'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), Attn: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite Notice–QDA–2012–01, in all correspondence related to this case. 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: Mrs. Angela Lehman, telephone 703–605–9541, email *DemandBasedModel@gsa.gov.*

SUPPLEMENTARY INFORMATION: Over the last 20 years, the MAS program has expanded to encompass 31 Schedules with over 19,000 federal contractors and generally, has operated under continuous open solicitations or ''seasons'' to receive new offers. Additional information about the MAS program is available at *www.gsa.gov/schedules.*

Over time certain offerings and suppliers under the MAS program have not aligned with the procurement needs of the government. FAS projects that well over 50 percent of the MAS contracts awarded in 2011 will not have significant sales, and FAS will spend millions of dollars to support and manage such low/no sales contracts. Additionally, the Government estimates that industry incurs significant costs in applying for and maintaining Schedules contracts.

To mitigate the costs and burdens associated with the current process while maintaining the benefits of a program that facilitates easy access to cost-effective competitive small and large businesses, FAS is proposing to modify its current practice of a continuous open season for all Schedules to a practice whereby the Schedules will be individually assessed to determine whether a continuous open season should continue or whether one of the variations described below would be suitable.

GSA's plan for moving to a demand based model is built around careful analysis before any action is taken and continually monitoring the government's procurement demands. The tentative plan, which GSA seeks comment on before finalizing, includes the following steps:

1. GSA will assess each Special Item Number (SIN) level requirements from the standpoint of Federal demand, existing sources, sales performance under existing contracts, changing market dynamics, socio-economic considerations, and other available data.

2. Based on the assessment, GSA would determine whether to maintain a continuous open season for an entire Schedule, maintain a continuous open season for only certain SINs on a particular Schedule, or close the Schedule or certain SINs on the Schedule on a temporary basis to new offers.

3. GSA would publish its decision with regard to the affected Schedule or SIN, in FedBizOpps. This might include, without limitation; maintaining a continuous open season for the Schedule or SIN; a temporary closure of the Schedule or SIN; temporarily re-opening after a decision to close the Schedule or SIN temporarily; merging the Schedule or SIN into one or more other Schedules or SINs; or the cancellation of the Schedule or SINs.

4. Each temporary closure of a Schedule or SIN would be published in FedBizOpps no fewer than 30 days prior to the effective date of the temporary closure. During the interim period, new offers for Schedule contracts and modification requests to add SINs to existing contracts would be received and processed in the usual manner. No new offers would be accepted after the effective date of the temporary closure, except, contract holders may, during or after the last year of their third contract option period, submit an offer for a new contract.

5. For any Schedule or SIN that is closed temporarily, the Schedule or SIN would be assessed periodically and would re-open (via an open season) at least once every 3 years. The open season would be published in FedBizOpps effective immediately upon publication. In case of cancellation or merger of a Schedule or SIN, affected MAS solicitations would be amended (refreshed), and affected contracts would be cancelled or modified accordingly.

The DBM is not intended to affect contracts or orders awarded prior to a temporary closure. Holders of valid contracts under Schedules or SINs that were open when the contract was awarded but which are later closed temporarily under DBM would continue to be able to seek, accept, and perform orders through the end of their contract's current period of performance. Decisions on whether to exercise any remaining option periods on such contracts would be made in the usual manner.

This measured approach will create a more effective environment for managing the Schedules Program. It will also create a healthier business environment for current and prospective suppliers. Combined with tools such as order set-asides, authorized by section 1331 of the Small Business Jobs Act, the Schedules Program should be even more successful in meeting its obligation to maximize opportunities for its small business partners and is fully committed to providing them with the help they need to win work.

GSA is seeking comments, especially from small businesses. Detailed and comprehensive responses are appreciated to ensure that GSA fully understands the comments. GSA encourages comments that address specific operational implementation recommendations and responses to the specific questions below:

1. There are a wide range of considerations GSA should employ in determining whether additional capacity is needed on a certain Special Item Number (SIN). This includes considerations such as number of contracts, sales trends, average sales per contractor, geography, socio-economic status on the SIN, degree of innovation in the industry, and views from other Federal Agencies. What else should GSA consider in making this decision?

2. How much advance notice should GSA provide before making a decision for temporary closure? What business factors drive the amount of notice needed?

3. Once GSA makes an announcement for temporary closure, there is potential for a high number of new offers before the effective date of the temporary closure. It is highly likely that nearly all of these offers will not generate business. What should GSA do with offers received in this window?

4. To help industry best plan, should GSA's reassessment be conducted annually, every two years, or every three years? What actions can GSA take to assist industry with planning? For example, is it better to know with certainty when a schedule or SIN will reopen even if that means the duration of closure is longer, or is it better for GSA to take a shorter term view of the question?

5. Currently, over 50 percent of schedule contracts will not meet the sales retention criteria. Is reducing this percentage to 30 percent an appropriately aggressive interim goal?

6. Are there other considerations on how to ensure minimum impact to industry with the implementation?

Dated: July 18, 2012.

Houston Taylor,

Assistant Commissioner, Office of Acquisition Management, Federal Acquisition Service, General Services Administration.

[FR Doc. 2012–17882 Filed 7–20–12; 8:45 am]

BILLING CODE 6820–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0937–0166]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Title: HHS 42 CFR subpart B; Sterilization of Persons in Federally Assisted Family Planning Projects—OMB No. 0937–0166—Extension—OPHS, Office of Population Affairs—Office of Family Planning.

Abstract: This is a request for extension of a currently approved collection for the disclosure and record-keeping requirements codified at 42 CFR part 50, subpart B (''Sterilization of Persons in Federally Assisted Family Planning Projects''). The consent form solicits information to assure voluntary and informed consent to persons undergoing sterilization in programs of health services which are supported by federal financial assistance administered by the PHS. It provides additional procedural protection to the individual and the regulation requires that the consent form be a copy of the form that is appended to the PHS regulation. In 2003, the PHS sterilization consent form was revised to conform to OMB government-wide standards for the collection of race/ethnicity data and to incorporate the PRA burden statement as part of the consent form. There are no revisions to the form.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
100,000	citizen seeking sterilization	100,000	1	15/60	25,000

Keith A. Tucker,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2012–17790 Filed 7–20–12; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Written Comments on Draft Phase 3 Long-Term Care Facilities Strategy/Module for Inclusion in the National Action Plan To Prevent Healthcare-Associated Infections: Roadmap to Elimination

AGENCY: Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Healthcare Quality.

ACTION: Notice.

SUMMARY: The Office of Healthcare Quality is soliciting public comment on a new long-term care facilities strategy/module of the National Action Plan to Prevent Healthcare-Associated Infections: Roadmap to Elimination. To further the HHS mission to protect the health and well-being of the nation, the HHS Steering Committee for the Prevention of Healthcare-Associated Infections has developed a draft comprehensive strategy for preventing and reducing healthcare-associated infections in long-term care facilities. This Phase 3 Long-Term Care Facilities module builds upon and is to be included in the existing National Action Plan to Prevent Healthcare-Associated Infections: Roadmap to Elimination that focuses on reducing healthcare-associated infections (HAIs) in acute care hospitals, ambulatory surgical centers, and end stage renal disease facilities and presents strategies for increasing healthcare personnel influenza vaccination coverage (Phases 1 & 2).

DATES: Comments on the draft Phase 3 Long-Term Care Facilities module should be received no later than 5:00 p.m. Eastern daylight saving time on August 22, 2012.

ADDRESSES: The draft Phase 3 Long-Term Care Facilities module can be found at *http://www.hhs.gov/ash/initiatives/hai/actionplan/index.html#tier3.* Comments are preferred electronically and may be

addressed to *OHQ@hhs.gov.* Written responses should be addressed to the Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852, Attention: Draft Phase 3 Long-Term Care Facilities Module.

FOR FURTHER INFORMATION CONTACT: Debra Nichols (240) 453–8264 or *OHQ@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

HAIs are among the leading causes of morbidity and mortality in the United States and the most common type of adverse event in the field of healthcare today. They are defined as localized or systemic adverse events, resulting from the presence of an infectious agent or toxin, occurring to a patient in a healthcare setting. An epidemiologic study by the Centers for Disease Control and Prevention (CDC) revealed that the subset of HAIs with hospital-onset accounted for approximately one in twenty hospital patients contracting an HAI. The fiscal cost is steep as well. HAIs contribute to an additional 28 to 33 billion dollars in healthcare expenditures annually.

For these reasons, the prevention and reduction of healthcare-associated infections is a top priority for the U.S. Department of Health and Human Services (HHS). Multiple agencies within HHS have been working to reduce the incidence and prevalence of HAIs for decades. To further efforts, the HHS Steering Committee for the Prevention of Healthcare-Associated Infections was established in July 2008 and charged with developing a comprehensive strategy to progress toward the elimination of HAIs.

In 2009, the Steering Committee issued the initial version of the National Action Plan to Prevent Healthcare-Associated Infections: Roadmap to Elimination. The initial strategy (Phase 1) focused on the prevention of infections in the acute care hospital setting and includes a prioritized research agenda; an integrated information systems strategy; policy options for linking payment incentives or disincentives to quality of care and enhancing regulatory oversight of hospitals; and a national messaging plan to raise awareness of HAIs among the general public, providers, and other stakeholder groups. The Action Plan also delineates specific measures and five-year goals to focus efforts and track national progress in reducing the most prevalent infections. In addition, the plan intended to enhance collaboration with non-government stakeholders and partners at the national, regional, state, and local levels to strengthen coordination and impact of efforts. Recognizing the need to coordinate prevention efforts across healthcare facilities, HHS released Phase 2 of the Action Plan in late 2010. Phase 2 expands efforts outside of the acute care setting into outpatient facilities (ambulatory surgical centers and end-stage renal disease facilities). Phase 2 of the Action Plan also addressed strategies to increase influenza vaccination coverage amongst healthcare personnel as influenza transmission to patients by healthcare personnel is well documented; healthcare personnel can acquire and transmit influenza from patients or transmit influenza to patients and other staff; and higher vaccination coverage among healthcare personnel has been associated with a lower incidence of healthcare-associated influenza cases.

The healthcare and public health communities are increasingly challenged to identify, respond to, and prevent HAIs across the continuum of settings where healthcare is delivered. The public health model's population-based perspective can be deployed to enhance HAI prevention, particularly given the shifts in healthcare delivery from the acute care (Phase 1) to ambulatory (Phase 2) and now to long-term care facilities with Phase 3.

The Steering Committee has drafted a strategy or modules that address HAI prevention in long-term care facilities, specifically nursing facilities and skilled nursing facilities. Similar to its Phase 1 & 2 efforts, Phase 3 Long-Term Care Facilities healthcare-associated infection reduction strategies expect to be executed through research and guideline development, implementation of national quality improvement initiatives at the provider level, and creation of payment policies that promote infection control and reduction in healthcare facilities.

To assist the Steering Committee in obtaining broad input in the development of the draft module, HHS, through this request for information (RFI), is seeking comments from stakeholders and the general public on the draft Phase 3 Long-Term Care Facilities module. The modules can be found at *http://www.hhs.gov/ash/initiatives/hai/actionplan/index.html#tier3.*

II. Information Request

The Office of Healthcare Quality, on behalf of the HHS Steering Committee for the Prevention of Healthcare-Associated Infections, requests input on the draft: ''Long-Term Care Facilities.'' In addition to general comments, the Steering Committee is seeking input on any additional gaps not addressed in the draft strategies.

III. Potential Responders

HHS invites input from a broad range of individuals and organizations that have interests in preventing and reducing healthcare-associated infections. Some examples of these organizations include, but are not limited to the following:

—General public
—Healthcare, professional, and educational organizations/societies
—Caregivers or health system providers (e.g., physicians, physician assistants, nurses, infection preventionists)
—State and local public health agencies
—Public health organizations
—Foundations
—Medicaid- and Medicare-related organizations
—Insurers and business groups
—Collaboratives and consortia

When responding, please self-identify with any of the above or other categories (include all that apply) and your name. Anonymous submissions will not be considered. The submission of written materials in response to the RFI should not exceed 10 pages, not including appendices and supplemental documents. Responders may submit other forms of electronic materials to demonstrate or exhibit concepts of their written responses. All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment.

Dated: July 17, 2012.

Don Wright,

Deputy Assistant Secretary for Health.

[FR Doc. 2012–17925 Filed 7–20–12; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Nomination of an In Vitro Test Method for the Identification of Contact Allergens: Request for Comments and Data

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for Comments and Data.

SUMMARY: On behalf of the Interagency Coordinating Committee on the Validation of Alternative Methods

(ICCVAM), the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) requests public comment on an ICCVAM test method nomination for validation studies. The validation studies are proposed to determine the usefulness and limitations of an *in vitro* test method to identify electrophilic substances that have the potential to produce allergic contact dermatitis (ACD). NICEATM also requests data generated using *in vivo* and *in vitro* test methods for assessing ACD hazard potential, including but not limited to guinea pig methods, the murine local lymph node assay, the direct protein reactivity assay, the human cell line activation test, and the KeratinoSens™ assay. Data will be used to develop integrated testing and decision strategies that will also consider incorporation of the nominated test method following adequate validation studies.

DATES: Comments and test method data for assessing ACD hazard potential should be submitted by September 6, 2012. Comments and data submitted after this date will be considered in the evaluation where feasible.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC 27709, (telephone) 919–541–2384, (fax) 919–541–0947, (email) *niceatm@niehs.nih.gov.* Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background

The development of alternatives to animal testing for ACD is an ICCVAM priority (ICCVAM, 2008). See *http://iccvam.niehs.nih.gov/methods/immunotox/immunotox.htm* for more information on ICCVAM evaluations of ACD test methods.

Test Method Nomination for Validation Studies

An essential first step in the adverse outcome pathway for skin sensitization is the binding of a potential sensitizer to a dermal protein (Karlberg *et al.,* 2008). Chipinda and co-workers described a rapid screening assay for substances that might react with proteins using the substance nitrobenzenethiol, which contains a reactive thiol group found in proteins, as a probe (Chipinda *et al.,* 2010). Subsequently, a second probe, pyridoxalamine, was added to enable accurate detection of potential sensitizers that react with amine groups found in proteins. Covalent binding of the test substance to the probe is monitored by loss of absorbance or fluorescence. The modified assay identifies electrophilic skin sensitizers, but not prohaptens, which must be metabolized for skin sensitizing activity. The advantages of this assay include (1) The ability to obtain results using low test chemical concentrations, which reduces solubility problems; (2) the ability to run the assay without specialized equipment such as a high performance liquid chromatograph, a flow cytometer, or a mass spectrometer; the assays require only a simple spectrophotometer and fluorometer; (3) low cost; and (4) rapid results (assay time is less than half a day).

Once validation criteria have been appropriately addressed through validation studies, this method may have the potential to meet regulatory requirements for identifying skin sensitizers in a range of applications as a screening test and as a component of an integrated testing and decision strategy. The test developer from the National Institute of Occupational Safety and Health submitted a nomination requesting that NICEATM and ICCVAM evaluate this method as a screening assay for identification of contact allergens, and proposes collaborations with NICEATM to conduct validation studies and determine the most appropriate decision criteria to maximize the sensitivity and specificity of the *in chemico* assay. The cover letter for the nomination can be viewed on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov/SuppDocs/submission.htm#nomination).*

Draft ICCVAM Priority and Draft Recommended Activities

Based on the information provided by the test method developer and consideration of the ICCVAM prioritization criteria, ICCVAM considers that the nomination is of sufficient interest and applicability to warrant validation studies to characterize its usefulness and limitations for predicting ACD potential of chemicals and products. ICCVAM's draft position is that the nomination should have a high priority for the proposed studies. The ICCVAM preliminary evaluation of the method can be viewed on the NICEATM–ICCVAM Web site *(http://iccvam.niehs.nih.gov/methods/immunotox/EASA.htm).* ICCVAM proposed contributions to such studies would include review and comments on: (1) The optimization and standardization of the test method protocol, (2) the validation study design, and (3) reference chemical selection for the validation study. Federal agency programs will consider the nomination priority and recommended activities in determining potential support for validation activities.

As part of the nomination review process, NICEATM invites public comments on the relative draft priority assigned by ICCVAM and the appropriateness of the proposed activities. ICCVAM will finalize its recommendations on the priority and activities for this nomination after considering comments received from the public and the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM), which will comment on the ICCVAM draft recommendations at its meeting on September 5–6, 2012. Information about the SACATM meeting is available on the NTP Web site (*http://ntp.niehs.nih.gov/go/32822*).

Background Information on ICCVAM, NICEATM, and SACATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of test methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine (enhance animal well-being and lessen or avoid pain and distress), or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about ICCVAM and NICEATM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov).*

SACATM was established in response to the ICCVAM Authorization Act [Section 285*l*–3(d)] and is composed of scientists from the public and private sectors. SACATM advises ICCVAM, NICEATM, and the Director of the NIEHS and NTP regarding statutorily

mandated duties of ICCVAM and activities of NICEATM. SACATM provides advice on priorities and activities related to the development, validation, scientific review, regulatory acceptance, implementation, and national and international harmonization of new, revised, and alternative toxicological test methods. Additional information about SACATM, including the charter, roster, and records of past meetings, can be found at *http://ntp.niehs.nih.gov/go/167.*

References

Chipinda I, Ajibola RO, Morokinyo MK, Ruwona TB, Simoyi RH, Siegel PD. 2010. Rapid and simple kinetics screening assay for electrophilic dermal sensitizers using nitrobenzenethiol. Chem Res Toxicol 23: 918–925.

ICCVAM. 2008. The NICEATM–ICCVAM Five-Year Plan (2008–2012): A Plan to Advance Alternative Test Methods of High Scientific Quality to Protect and Advance the Health of People, Animals, and the Environment. NIH Publication No. 08–6410. Research Triangle Park, NC: NIEHS. Available: *http://iccvam.niehs.nih.gov/docs/5yearplan.htm.*

Karlberg A–T, Bergström MA, Börje A, Luthman, K, Nilsson JLG. 2008. Allergic Contact Dermatitis—Formation, Structural Requirements, and Reactivity of Skin Sensitizers. Chem Res Toxicol 21: 53–69.

Dated: July 11, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–17788 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Evaluation of an Up-and-Down Procedure for Acute Dermal Systemic Toxicity Testing: Request for Nominations for an Independent Expert Panel and Submission of Relevant Data

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Request for Data; Request for Nominations of Scientific Experts.

SUMMARY: The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), in collaboration with the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), is planning to convene an independent scientific peer review panel (Panel) to assess the validation status of an up-and-down procedure (UDP) for acute dermal systemic toxicity testing. NICEATM requests nominations of scientific experts who can be considered for the Panel and submission of data for substances tested in *in vivo* acute dermal and oral systemic toxicity tests.

DATES: Nominations and test method data for the acute dermal and oral tests should be submitted by September 6, 2012. Data submitted after this date will be considered in the evaluation where feasible.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC 27709, (telephone) 919–541–2384, (fax) 919–541–0947, (email) *niceatm@niehs.nih.gov.* Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background

Acute poisoning from chemicals and chemical products, including pharmaceuticals, is a significant public health problem. In 2009, 2.5 million human poisoning cases were reported to U.S. poison control centers (Bronstein *et al.,* 2010). Dermal exposures were involved in 7.25% (179,832 cases) of the poisonings, which was second in frequency only to exposures by oral ingestion (2,080,781 cases). To protect workers and consumers from acute dermal poisoning exposures, regulatory agencies in the U.S. (e.g., the Environmental Protection Agency [EPA], the Consumer Products Safety Commission, Department of Transportation, Occupational Safety and Health Administration) use the information from acute dermal systemic toxicity tests using rabbits or rodents to determine the potential of chemicals and chemical products to cause life-threatening health effects or death from acute dermal exposures. Test results are used as the basis for hazard classification and labeling and to inform consumers and workers how to avoid acute dermal exposures to hazardous chemicals and products during the handling, transport, and use of chemicals and products.

In 2002, ICCVAM recommended the revised UDP for acute oral systemic toxicity as a replacement for the conventional test. The revised oral UDP was accepted internationally as Organisation for Economic Co-operation and Development (OECD) Test Guideline 425 in 2001 (OECD, 2001). The oral UDP reduces animal use by up to 70% compared to the traditional testing procedure. NICEATM is now developing a UDP procedure for acute dermal systemic toxicity testing, which is one of the four most commonly conducted product safety tests worldwide. Alternative test methods for acute dermal systemic toxicity testing are an ICCVAM priority because such testing is required by multiple agencies, can involve large numbers of animals, and can result in significant pain and distress to test animals (ICCVAM, 2008).

The acute dermal systemic toxicity UDP protocol is expected to reduce the number of animals used compared with current EPA (EPA, 1998) and OECD (OECD, 1987) test guidelines. A draft background review document (BRD) will include a proposed dermal UDP test method protocol and analyses comparing the results of simulated testing using the UDP protocol with the standard acute dermal systemic toxicity reference test described in EPA Health Effects Test Guidelines OPPTS 870.1200 (EPA, 1998) and OECD Test Guideline 402 (OECD, 1987). The draft BRD will form the basis for the ICCVAM draft test method recommendations for the proposed UDP method. Draft recommendations on usefulness and limitations, standardized test method protocol, and future studies will be provided to the Panel and made available to the public.

The Panel will meet in public session to review the validation status of the UDP for acute dermal systemic toxicity testing. The Panel will comment on the extent to which the BRD supports the draft ICCVAM test method recommendations. Meeting information, including dates, locations, and public availability of the meeting documents will be announced in a future **Federal Register** notice and will also be posted on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

Request for Nominations of Scientific Experts

NICEATM requests nominations of scientists with relevant knowledge and expertise to serve on the Panel. Areas of relevant expertise include, but are not limited to biostatistics; human and veterinary dermatology, with an emphasis on evaluation and treatment of chemical injuries that produce systemic effects; human and animal toxicology, especially systemic effects due to dermal exposures*; in vivo* dermal and oral toxicity testing; and test method validation. Each nomination should include the nominee's name, affiliation, contact information (i.e., mailing address, email address, telephone and fax numbers), *curriculum*

vitae, and a brief summary of relevant experience and qualifications.

Request for Data

NICEATM invites the submission of data for substances tested in standardized *in vivo* acute dermal systemic toxicity tests. Corresponding acute oral LD_{50} data for the same compounds tested dermally would be particularly useful. Oral data from rat tests and dermal data from rat and/or rabbit tests are preferred. Although data can be accepted at any time, please submit data by September 6, 2012 to ensure consideration during the ICCVAM evaluation process. Relevant data received after this date will be considered where feasible. All information submitted in response to this notice will be made publicly available and may be incorporated into future NICEATM and ICCVAM reports and publications, as appropriate.

When submitting data, please reference this **Federal Register** notice and provide appropriate contact information (name, affiliation, mailing address, phone, fax, email, and sponsoring organization, as applicable). NICEATM prefers that data be submitted electronically as copies of pages from study notebooks, spreadsheets, and/or study reports. Each submission for a substance should preferably include the following information, as appropriate: common and trade name, Chemical Abstracts Service Registry Number (CASRN), commercial source, *in vivo* test protocols used, extent to which the data were collected in accordance with national or international Good Laboratory Practice guidelines, date and testing organization, physical and chemical properties (e.g., molecular weight, pH, water solubility, log K_{ow}, etc.), estimated LD_{50}, and incidence of death and other adverse effects.

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine (enhance animal well-being and lessen or avoid pain and distress), or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

References

Bronstein AC, Spyker DA, Cantilena LR, Jr, Green JL, Rumack BH, Giffin SL. 2010. 2009 Annual Report of the American Association of Poison Control Centers' National Poison Data System (NPDS): 27th Annual Report. Clinical Toxicology 48: 979–1178.

EPA. 1998. Health Effects Test Guidelines: OPPTS 870.1200—Acute Dermal Toxicity. EPA 712–C–98–192. Washington, DC:U.S. Environmental Protection Agency. Available: *http://www.epa.gov/ocspp/pubs/frs/publications/Test_Guidelines/series870.htm.*

ICCVAM. 2008. NICEATM–ICCVAM Five-Year Plan (2008–2012): A Plan to Advance Alternative Test Methods of High Scientific Quality to Protect and Advance the Health of People, Animals and the Environment. Research Triangle Park, NC: National Institute of Environmental Health Sciences. Available: *http://iccvam.niehs.nih.gov/docs/5yearplan.htm.*

OECD. 1987. Test No. 402. Acute Dermal Toxicity [adopted 24 February 1987]. In: OECD Guidelines for the Testing of Chemicals, Section 4: Health Effects. Paris:OECD Publishing. Available: *http://dx.doi.org/10.1787/9789264070585-en.*

OECD. 2001. Test No. 425. Acute Oral Toxicity—Up-and-Down Procedure [adopted 17 December 2001]. In: OECD Guidelines for the Testing of Chemicals, Section 4: Health Effects. Paris:OECD Publishing. Available: *www.oecd.org/dataoecd/17/51/1948378.pdf.*

Dated: July 12, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–17787 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Safety and Occupational Health Study Section: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Safety and Occupational Health Study Section, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through June 30, 2014.

For more information contact: Price Connor, Ph.D., Executive Secretary, Safety and Occupational Health Study Section, Department of Health and Human Services, 1600 Clifton Road NE., Mailstop E74, Atlanta, Georgia 30333, telephone 404/498–2511 or fax 404/498–2571.

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: July 16, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–17879 Filed 7–20–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH); Meeting

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 following meeting of the aforementioned committee:

TIME AND DATE: 11:00 a.m.–3:00 p.m., August 15, 2012.

PLACE: Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 and the pass code is 9933701.

STATUS: Open to the public, but without a verbal public comment period.

Written comments should be provided to the contact person below in advance of the meeting.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, most recently, August 3, 2011, and will expire on August 3, 2013.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: The agenda for the conference call includes: SEC Petition for Ventron Corporation (Beverly, Massachusetts); Dose Reconstruction Review Subcommittee Update; Subcommittee and Work Group Updates; SEC Petition Evaluations Update for the September 2012 Advisory Board Meeting; Plans for September 2012 Advisory Board Meeting; and Advisory Board Correspondence.

The agenda is subject to change as priorities dictate.

Because there is not a verbal public comment period, written comments may be submitted. Any written comments received will be included in the official record of the meeting and should be submitted to the contact person below in advance of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Theodore M. Katz, M.P.A., Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE., Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1–800–CDC–INFO; Email *ocas@cdc.gov*.

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: July 16, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–17880 Filed 7–20–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Data Collection Plan for a Follow-up Survey with Child Welfare Information Gateway Customers.

OMB No.: New Collection.

Description: The proposed information collection activity includes a follow-up survey designed to assess how professional customers are using information received from Child Welfare Information Gateway. Child Welfare Information Gateway is a service of the Children's Bureau, a component within the Administration for Children and Families, and is dedicated to the mission of connecting professionals and concerned citizens to information on programs, research, legislation, and statistics regarding the safety, permanency, and well-being of children and families. The follow-up survey will gather data about how professionals use Child Welfare Information Gateway's information services in their work. Survey findings will be applied to make continuous improvements to Child Welfare Information Gateway's Web site and other information services.

Respondents: Child Welfare Information Gateway professional users.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Private Sector—Follow-up Survey	100	1	0.167	16.7
State, Local or Tribal Goverments—Follow-up Survey	100	1	0.167	16.7

Estimated Total Annual Burden Hours: 33.4 hours.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded 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. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the

information to be collected; and (e) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–17812 Filed 7–20–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Chronic Disease Self-Management Education Program Standardized Data Collection

AGENCY: Administration on Aging (AoA), Administration for Community Living (ACL), HHS.

ACTION: Notice.

Subject

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the Chronic Disease Self-Management Education Program.

DATES: Submit written or electronic comments on the collection of information by September 21, 2012.

ADDRESSES: Submit electronic comments on the collection of information to: *Michele.boutaugh@aoa.hhs.gov.* Submit written comments on the collection of information to Michele Boutaugh, U.S. Administration on Aging, 61 Forsyth Street SW., Suite 5M69, Atlanta, GA 30303–8909.

FOR FURTHER INFORMATION CONTACT: Michele Boutaugh, 404–987–3411 or *Michele.boutaugh@aoa.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The ''Empowering Older Adults and Adults with Disabilities through Chronic Disease Self-Management Education (CDSME) Programs'' cooperative agreement program is financed through 2012 Prevention and Public Health Funds. The statutory authority for cooperative agreements under this program announcement is contained in Section 1701(a)(3)(A–B), Section 1701(a)(4), and Section 1703(a)(4) of the Public Health Service Act; and Consolidated Appropriations Act, Fiscal Year 2012, Public Law 112–74; and the Patient Protection and Affordable Care Act, Public Law 111–148; and Title IV, Section 4002 of the Affordable Care Act (PPHF).

This data collection is necessary for monitoring program operations and outcomes. AoA proposes to use the following tools: (1) Semi-annual progress reports to monitor grantee progress; (2) an Annual Integrated Services Delivery System Assessment Tool to determine grantee's progress in developing sustainable program delivery systems; (3) an Organization Data form to record location of sites where workshops are held which will allow mapping of the delivery infrastructure; and (4) a set of tools used to collect information at each workshop completed by the workshop leaders (Workshop Information Cover Sheet and Attendance Log) and a Participant Information Survey completed by each participant to document their demographic and health characteristics, including whether the participant has a disability. The Participant Survey also requests the last 4 numbers of the social security number to allow for potential Medicare claims matching and an analysis of changes in health care utilization post participation. AoA proposes to gather data using an online data entry system for the workshop and participant survey data.

The proposed FY2012 Data Collection Tools can be found at AoA's Web site at: *http://www.aoa.gov/AoARoot/AoA_Programs/Tools_Resources/collection_tools.aspx.*

ACL estimates the burden of this collection of information as 400 hours for State Governments, 1,170 hours for local agency staff, and 2,000 hours for individuals—Total burden is 3,570 hours per year.

Dated: July 17, 2012.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2012–17752 Filed 7–20–12; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

President's Committee for People with Intellectual Disabilities; Committee Meeting via Conference Call

AGENCY: Administration for Community Living (ACL), HHS.

ACTION: Notice.

DATES: Thursday, August 09, 2012, from 1:00 p.m. to 2:30 p.m. e.s.t., via audio conferencing. This meeting will be open to the public.

Details for public access to the Committee Conference Call are cited below:

Toll Free Dial-In Number: 888–989–0724.

Pass Code: 1939592.

Individuals whose full participation in the meeting will require special accommodations (e.g., sign language interpreting services, assistive listening devices, materials in alternative format such as large print or Braille) should

notify PCPID Policy Analyst, Madjid (MJ) Karimi, via email at *MJ.Karimie@acf.hhs.gov,* or via telephone at 202–619–0634. Special accommodations needed must be received no later than Friday, August 03, 2012. PCPID will attempt to meet requests for accommodations made after that date, but cannot guarantee ability to grant requests received after this deadline.

Agenda: Discussion plans for developing the PCPID 2012 Report to the President.

Additional Information: For further information, please contact Laverdia Taylor Roach, Senior Advisor, President's Committee for People with Intellectual Disabilities, The Aerospace Center, Second Floor West, 370 L'Enfant Promenade SW., Washington, DC 20447. Telephone: 202–619–0634. Fax: 202–205–9519. Email: *Laverdia.Roach@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services, through the Administration on Intellectual and Developmental Disabilities, on a broad range of topics relating to programs, services, and supports for persons with intellectual disabilities. The PCPID Executive Order stipulates that the Committee shall: (1) Provide such advice concerning intellectual disabilities as the President or the Secretary of Health and Human Services may request; and (2) provide advice to the President concerning the following for people with intellectual disabilities: (a) Expansion of educational opportunities; (b) promotion of homeownership; (c) assurance of workplace integration; (d) improvement of transportation options; (e) expansion of full access to community living; and (f) increasing access to assistive and universally designed technologies.

Dated: July 6, 2012.

Sharon Lewis,

Commissioner, Administration on Intellectual and Developmental Disabilities.

[FR Doc. 2012–17450 Filed 7–20–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

DATES: The meeting will be held on September 14, 2012, from 8 a.m. to 5 p.m.

ADDRESSES: *Location:* FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

FOR FURTHER INFORMATION CONTACT: *Contact Person:* Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *CRDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), to find out further information regarding FDA advisory committee information. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss new drug application (NDA) 203446, imatinib mesylate, submitted by Novartis Pharmaceuticals Corp., as adjunctive therapy for the treatment of pulmonary arterial hypertension (WHO Diagnostic Group 1), to improve exercise capacity and cardiopulmonary hemodynamics in patients who remain symptomatic despite treatment with two or more approved vasodilator therapies (''vasodilator therapies'' refer to medicines used to dilate blood vessels and thereby reduce resistance to blood flow).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before August 29, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 21, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 22, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on

public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 17, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–17881 Filed 7–20–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Organ Transplantation; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Organ Transplantation (ACOT).

Date and Time: August 28, 2012, 8:00 a.m. to 4:30 p.m. Eastern Daylight Time.

Place: Rockville Hilton Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Status: The meeting will be open to the public.

Purpose: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, and 42 CFR 121.12 (2000), ACOT was established to assist the Secretary in enhancing organ donation, ensuring that the system of organ transplantation is grounded in the best available medical science, and assuring the public that the system is as effective and equitable as possible, and, thereby, increasing public confidence in the integrity and effectiveness of the transplantation system. ACOT is composed of up to 25 members, including the Chair. Members are serving as Special Government Employees and have diverse backgrounds in fields such as organ donation, health care public policy, transplantation medicine and surgery, critical care medicine and other medical specialties involved in the identification and referral of donors, non-physician transplant professions, nursing, epidemiology, immunology, law and bioethics, behavioral sciences, economics and statistics, as well as representatives of transplant candidates, transplant recipients, organ donors, and family members.

Agenda: The Committee will hear reports including those from the three ACOT Work Groups: Declining Rates of Donation/Geographical and Other Variations in Organ Distribution, Alignment of CMS Regulatory Requirements with OPTN and HRSA, and Brain Death Determination. Agenda items are subject to change as priorities indicate.

After Committee discussion, members of the public will have an opportunity to comment. Because of the Committee's full agenda and timeframe in which to cover the agenda topics, public comment will be limited. All public comments will be included in the record of the ACOT meeting. Meeting summary notes will be posted on the Department's donation Web site at *http://www.organdonor.gov/legislation/advisory.html#meetings.*

The draft meeting agenda will be posted on *https://www.team-psa.com/ACOT/Summer2012/.* In order to register for this meeting, please visit the Meeting Registration Page. The deadline to register is August 13, 2012. For all logistical questions and concerns, please contact Brittany Carey of PSA at 703–889–9033 or *bcarey@explorepsa.com.*

Public Comment: Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Passy Tongele, DoT, Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857 or email at *ptongele@hrsa.gov.* Requests should contain the name, address, telephone number, email address, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative.

The allocation of time may be adjusted to accommodate the level of expressed interest. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may request it at the time of the public comment period. Public participation and ability to comment will be limited to space and time as it permits.

For Further Information Contact: Patricia Stroup, Executive Secretary, ACOT, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857; telephone (301) 443–1127.

Dated: July 13, 2012.

Jennifer Riggle,

Deputy Director, Office of Management.

[FR Doc. 2012–17830 Filed 7–20–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Public Comment Period Extension for the Final Supplementary Risk Assessment for the Boston University (BU) National Emerging Infectious Diseases Laboratories (NEIDL)

SUMMARY: A Notice of Availability for the Final Supplementary Risk Assessment for the Boston University (BU) National Emerging Infectious Diseases Laboratories (NEIDL) was published in the **Federal Register** on July 6, 2012. Upon the publication of the Notice of Availability, a required comment period of at least 30 day began in which the National Institutes of Health would accept and consider comments from the public on the final supplementary risk assessment. This comment period was set to end on August, 6, 2012. In order to provide the public with additional time to review and comment on the final supplementary risk assessment, the National Institutes of Health (NIH) has decided to extend the public comment period for the final supplementary risk assessment until August 24, 2012.

ADDRESSES: Written comments on the final supplementary risk assessment must be postmarked no later than August 24, 2012. Comments should be sent to The National Institutes of Health, Office of Biotechnology Activities, Attn: NEIDL Risk Assessment, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland, 20892. Email comments should be sent to *NIH_BRP@od.nih.gov.* Please note that comments sent by email must be received by 11:59 p.m. on the last day of the comment period, August 24, 2012.

FOR FURTHER INFORMATION CONTACT: National Institutes of Health Office of Biotechnology Activities, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland, 20892. Telephone number: (301) 496–9838. Electronic mail address: *NIH_BRP@od.nih.gov.*

Availabilty of Copies and Electronic Access: Copies of the Final Supplementary Risk Assessment for the Boston University National Emerging Infectious Diseases Laboratory and the accompanying reader's guide may be obtained at no cost by calling (301) 496–9838, or by emailing requests to *NIH_BRP@od.nih.gov.* The documents are also available electronically at: *http://nihblueribbonpanel-bumc-neidl.od.nih.gov/default.asp.*

A copy of the final supplementary risk assessment and the reader's guide has also been made available for review at each of the following locations: Central Branch of the Boston Public Library, 700 Boylston Street, Boston, MA; South End Library, 685 Tremont Street, Boston, MA; Grove Hall Library, 42 Geneva Avenue; and Dudley Library, 65 Warren Street, Boston, MA.

Dated: July 18, 2012.

Ryan T. Bayha,

Science Policy Analyst, Office of Science Policy, National Institutes of Health.

[FR Doc. 2012–18026 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: AIDS and AIDS Related Research.

Date: August 8, 2012.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications,

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: Molecular Neuroscience.

Date: August 13, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Ocular Oncology.

Date: August 16, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, (301) 435–1265, *gordiyenkon@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 17, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17816 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Diabetes.

Date: July 24, 2012.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dianne Hardy, Ph.D.,Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genomics.

Date: July 24, 2012.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: July 17, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17817 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 contract proposal and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Maintenance and Operation of Chemical Synthesis Facility.

Date: July 26, 2012.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Rockville, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17795 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 application and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; The Contraceptive Clinical Trials Network Statistical and Clinical Coordinating Center (SCCC).

Date: August 6, 2012.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health, and Human Development, 6100 Executive Boulevard, Rockville, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17794 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Institute of Child Health and Human Development Special Emphasis Panel; Donald Compton: Connections Among Reading Comprehension, Math Problem Solving and Working Memory.

Date: August 15, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17792 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a meeting on August 16, 2012, from 9:30 to 11:30 a.m. at 31 Center Drive on the NIH campus, Building 31C, Conference Room 6. The meeting is open to the public.

DATES: August 16, 2012, from 9:30 to 11:30 a.m.

ADDRESSES: National Institutes of Health, 31 Center Drive, Building 31C, Conference Room 6C, Bethesda, MD 20892.

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, see the DMICC Web site, *www.diabetescommittee.gov,* or contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; Fax: 301–480–6741; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The DMICC facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The August 16, 2012, DMICC meeting will focus on ''Diabetes, Dementia, and Alzheimer's Disease.''

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written

comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC Web site, *www.diabetescommittee.gov*.

Dated: July 17, 2012.

B. Tibor Roberts,

Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2012–17791 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed 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 Institute of Allergy and Infectious Diseases Special Emphasis Panel; Targeting Persistent HIV Reservoirs.

Date: August 15, 2012.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Jay R Radke, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive MDS–7616, Bethesda, MD 20892–7616, 301–496–2550, *jay.radke@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 13, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17786 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NEURO–QOL Interim Sustainability and Training.

Date: July 26, 2012.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health (NINDS), NSC, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301–496–5388, *wiethorp@ninds.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing and limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 17, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17909 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Epidemiology Applications.

Date: August 13, 2012.

Time: 11:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; NEI K99 Review.

Date: August 15, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call), *Contact Person:* Brian Hoshaw, Ph.D., Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 12, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17801 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Alcohol Center Grants—Parent Committee.

Date: August 10, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Richard A Rippe, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Room 2109, Rockville, MD 20852, 301–443–8599, *rippera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: July 12, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17800 Filed 7–20–12; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Asthma in Older Adults.

Date: July 30, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Keary A Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; CVRN ll Cooperative Agreement.

Date: August 2, 2012.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.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: July 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17799 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) 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 purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Experimental Therapeutics Program (NExT).

Date: August 9–10, 2012.

Closed: August 9, 2012, 8:30 a.m.–4:30 p.m.

Agenda: To evaluate the NCI Experimental Therapeutics Program Portfolio.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Closed: August 10, 2012, 8:30 a.m.–3:30 p.m.

Agenda: To evaluate the NCI Experimental Therapeutics Program Portfolio.

Place: National Institutes of Health, Neuroscience Building 6001 Executive Boulevard, Conference Room A1 & A2, Bethesda, MD 20814.

Contact Person: Barbara Mroczkowski, Ph.D., Executive Secretary NCI Experimental Therapeutics Program, National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, MD 20817, (301) 496–4291, *mroczkowskib@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 12, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17798 Filed 7–20–12; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Research Dissemination and Implementation.

Date: August 6, 2012.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–435–0280, *mintzerk@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Short-Term Training Program.

Date: August 6, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@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: July 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17797 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center For Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Complementary and Alternative Medicine.

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 Advisory Council for Complementary and Alternative Medicine.

Date: August 27, 2012.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin H. Goldrosen, Ph.D., Director, Division of Extramural Activities, National Center for Complementary, and Alternative Medicine, 6707 Democracy Blvd., Ste. 401, Bethesda, MD 20892–5475, (301) 594–2014, *goldrosm@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: nccam.nih.gov/about/naccam/, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: July 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17796 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cellular and Molecular Neuroscience.

Date: August 2, 2012.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: July 16, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17815 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 24, 2012, 8:00 a.m. to July 25, 2012,

6:00 p.m., National Institute of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on July 3, 2012, 77 FR 39500.

The meeting will be held July 24, 2012, 8:00 a.m.–7:30 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: July 17, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–17814 Filed 7–20–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2011–0097]

Privacy Act of 1974; Department of Homeland Security, Federal Emergency Management Agency—009 Hazard Mitigation Assistance Grant Programs System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security, Federal Emergency Management Agency proposes to update and reissue a current system of records titled, ''Department of Homeland Security/Federal Emergency Management Agency—2006—0002 National Emergency Management Information System (NEMIS)—Mitigation (MT) Electronic Grants Management System of Records,'' and retitle it ''Department of Homeland Security/Federal Emergency Management Agency—009 Hazard Mitigation Assistance Grant Programs System of Records.'' As a result of the biennial review of this system, the Department of Homeland Security, Federal Emergency Management Agency is proposing changes to the following: (1) System name: (2) categories of individuals; (3) categories of records; (4) purposes; (5) routine uses; and (6) sources of records. This revised system will be included in the Department of Homeland Security, Federal Emergency Management Agency's inventory of record systems.

DATES: Submit comments on or before August 22, 2012. This revised system will be effective August 22, 2012.

ADDRESSES: You may submit comments, identified by docket number DHS–2011–0097, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Eric M. Leckey (202) 212–5100, Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC 20478. For privacy issues, please contact: Mary Ellen Callahan (703) 235–0780, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) proposes to update and reissue a current system of records titled, ''DHS/FEMA—2006—0002 National Emergency Management Information System (NEMIS)—Mitigation (MT) Electronic Grants Management System of Records (69 FR 75079, December 15, 2004),'' and retitle it, ''DHS/FEMA—009 Hazard Mitigation Assistance Grant Programs System of Records.'' As part of the process for reviewing information technology under the National Emergency Management Information System (NEMIS)—Mitigation (MT) Electronic Grants Management System (NEMIS—MT eGrants), DHS is updating both the Privacy Impact Assessment (PIA) published at *www.dhs.gov/privacy* and this system of records notice to reflect changes in the program and technology.

FEMA collects personally identifiable information (PII) through paper and electronic applications for Hazard Mitigation Assistance (HMA) grant programs. This SORN includes renaming the system of records to eliminate the specific reference to ''electronic grants management'' and therefore broaden the coverage of the system of records to include paper-based applications for Hazardous Mitigation Assistance (HMA) grant programs.

The categories of individuals has been broadened to cover grant applicants from additional HMA grants programs not previously included in the MT Electronic Grants Management System of Records. The HMA grant programs include, but may not be limited to, the Pre-Disaster Mitigation (PDM) grant program (42 U.S.C. 5133), the Hazard Mitigation Grant Program (HMGP) (42 U.S.C. 5170c), the Flood Mitigation Assistance (FMA) grant program (42 U.S.C. 4104c), the Severe Repetitive Loss (SRL) grant program (42 U.S.C. 4102a), and the Repetitive Flood Claims (RFC) grant program (42 U.S.C. 4030). HMA grant programs provide funds to eligible applicants to implement mitigation activities to reduce or eliminate the risk of future damage to life and property from hazards.

Eligible applicants for FEMA HMA grants include all fifty states, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and federally recognized tribal governments. Eligible sub-applicants of HMA grants include state agencies, local governments, tribal governments, and, for HMGP only, certain private, non-profit entities, to which a sub-grant is awarded by an applicant.

Some applications for HMA grant programs propose mitigation activities that impact property privately owned by individuals, such as: retrofitting structures, elevating structures, acquiring and demolishing or relocating structures, minor structural flood control projects, or constructing safe rooms. These applications include the minimum amount of the property owner's PII necessary to ascertain the eligibility of the property and/or structure under mitigation grant program regulations.

This SORN has been revised to update categories of records to provide additional transparency. Categories of records now include: information about points of contact (POC) who submit grant applications, including the name of the organizations submitting the grant; the name of the organization's POC for the grant and the grant POC's office phone number, office mailing address, and email address; and information about the Governor's representatives who may sign grant applications, such as the representative's name and signature. Categories of records also now include

information related to payments or financial assistance property owners may receive from non-FEMA sources.

The purpose of this system of records has been expanded to include the Hazard Mitigation Grant Program, the Severe Repetitive Loss Program, the Repetitive Flood Claims Program, and any other authorized Hazard Mitigation Assistance grant programs where the same type of information is collected and used for the same purpose of review and approving hazard mitigation grants.

The routine uses have been updated to be consistent with the existing order and content of all DHS SORNs. In addition, two new routine uses have been added. Routine use I has been added to clarify that information will be shared for routine management and oversight between FEMA and other federal agencies, state and local governments, or other public or private entities (to include voluntary/non-governmental organizations, insurance companies, insurance agents/brokers, individual's employer, and/or financial institutions) when an individual property owner's eligibility for grant assistance to the property, in whole or in part, depends upon financial benefits already received or available from another source for similar purposes. Routine use J has been added in order to allow the Department to disclose information to the public when the public's need to know the information outweighs the risk to privacy.

DHS/FEMA is clarifying the language under the sources of records. FEMA collects information in its HMA grant applications from state, local, tribal, and territorial partners seeking grant funding. However, private and non-profit organizations may be additional sources of information.

This updated system will be included in DHS/FEMA's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses of the records contained in each system in order to make agency record keeping practices transparent; to notify individuals regarding the uses to which personally identifiable information is put; and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/FEMA—009 Hazard Mitigation Assistance Grant Programs System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system change to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS:

Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA)—009.

SYSTEM NAME:

DHS/FEMA—009 Hazard Mitigation Assistance Grant Programs System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Mitigation eGrants, the Hazard Mitigation Grant Program (HMGP) system, and hard copy records are maintained at Federal Emergency Management Agency Headquarters, in Washington, DC and field locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include:

- The points of contact for the grant applications, including applications that are denied, and awarded grants (grantees), such as state, local, tribal, and territorial governments, and private and non-profit organizations applying for HMA grant funds; and
- Individual private property owners whose properties are identified in applications for Hazard Mitigation Assistance (HMA) grant funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information may be collected:

- Individual property owner's name;
- Individual property owner's damaged property address;
- Individual property owner's home phone number;
- Individual property owner's office phone number;
- Individual property owner's cell phone number;
- Individual property owner's mailing address;
- Individual property owner's status regarding flood insurance;
- Individual property owner's National Flood Insurance Program (NFIP) policy number;
- Individual property owner's insurance policy provider for the property proposed to be mitigated with FEMA funds;
- Individual property owner's signature;
- Grant applicant organization name;
- Grant applicant organization POC;
- Grant applicant organization POC office phone number;
- Grant applicant organization POC office mailing address;
- Grant applicant organization POC email address;
- Grant applicant's Dun and Bradstreet Data Universal Numbering System (DUNS);
- Governor's authorized representative name;
- Governor's authorized representative signature;
- Notations and reports of decisions from insurance, disaster, or similar financial aid and/or income from other federal and state agencies, insurance companies, employers, banks, financial or credit data services, and public or private entities as they relate to payments and/or financial assistance received by individual property owners for the subject property; and
- Mitigation activity type, hazard type, award date, and/or Congressional district.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 203 and 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5133 and 5170c; Sections 1366, 1323, and 1361A of the National Flood Insurance Act, as amended, 42 U.S.C. 4030, 4102a, and 4104c.

PURPOSE(S):

The purpose of this system is to determine the eligibility of a property or structure for FEMA's hazard mitigation grant programs, verify the eligibility of activities for mitigation grants, identify

repetitive loss properties, and implement measures to reduce future property damage from hazards.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to a written inquiry from that congressional office made pursuant to a Privacy Act waiver from the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary or relevant to such audit or oversight function.

E. To agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To another federal, state, or local government agency charged with administering federal mitigation or disaster relief programs in order to prevent a duplication of efforts by FEMA and the other agency, or a duplication of benefits to an individual eligible to apply for mitigation grant programs administered by FEMA.

I. To a federal, state, or local government agency, or other public or private entity (to include voluntary/non-governmental organizations, insurance companies, insurance agents/brokers, individual's employer, and/or financial institutions), when an individual property owner's eligibility for grant assistance to the property, in whole or in part, depends upon financial benefits already received or available from that source for similar purposes.

J. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by applicant or sub-applicant organization submitting the grant application, mitigation activity type, hazard type, award date, congressional district, and/or individual's flood insurance policy information.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

In accordance with Government Records Schedule (GRS) 3, Item 14, grant administrative records and hard copies of unsuccessful grant applications files are destroyed when two years old. In accordance with GRS 3, Item 13, electronically received and processed copies of unsuccessful grant application files will be stored for 3 years from the date of denial, and then deleted. In accordance with FEMA Records Schedule N1–311–95–1, Item 1, grant project records are maintained for three years after the end of the fiscal year that the grant or agreement is finalized or when no longer needed, whichever is sooner. In accordance with FEMA Records Schedule N1–311–95–1, Item 3, grant final reports are retired to the Federal Records Center (FRC) three years after cutoff, and then transferred to National Archives and Records Administration (NARA) 20 years after cutoff. In accordance with FEMA Records Schedule N1–311–95–1, Item 2; N1–311–01–8, Item 1; and N1–311–04–1, Item 1, all other grant (both disaster and non disaster) records will be stored

for 6 years and 3 months from the date of closeout (where closeout is the date FEMA closes the grant in its financial system) and final audit and appeals are resolved and then deleted. Records of real properties (property acquisition agreement and lists of acquired properties) acquired with FEMA funds for maintenance in accordance with agreement terms of the grant cannot be destroyed until agreement with locality is no longer viable.

SYSTEM MANAGER AND ADDRESS:

Director, Risk Reduction Division, FEMA, 1800 South Bell Street, Arlington, VA 20598–3030.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the FEMA FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you must:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained by FEMA from state, local, tribal, territorial governments, and private and non-profit organizations via hard copy and electronic applications for assistance. Individual property owners cannot apply directly to FEMA for assistance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: July 12, 2012.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–17783 Filed 7–20–12; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–0546]

Policy on the 2009 Revision of the International Maritime Organization Code for the Construction and Equipment of Mobile Offshore Drilling Units

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of CG–ENG Policy Letter 02–12, ''Acceptance of the 2009 MODU Code.'' On December 2, 2009, the International Maritime Organization (IMO) adopted IMO Assembly Resolution A.1023(26), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009 (2009 MODU Code). CG–ENG Policy Letter 02–12 establishes that the Coast Guard considers the design and equipment standards of the 2009 MODU Code to be at least as effective as the design and equipment standards of the 1979 and 1989 versions of the MODU Code. Therefore, an Officer in Charge, Marine Inspection (OCMI) may consider a foreign documented MODU with a valid 2009 MODU Code Certificate issued by the flag state or its authorized agent to comply with 33 CFR 143.207(c) after confirming substantial compliance with the provisions of the 2009 MODU Code.

DATES: CG–ENG Policy Letter 02–12 is effective as of May 7, 2012.

ADDRESSES: This notice and the documents referenced within are available in the docket and can be viewed by going to *www.regulations.gov,* inserting USCG–2012–0546 in the ''Keyword'' box, and then clicking ''Search.'' CG–ENG Policy Letter 02–12 is also available at www.uscg.mil and can be viewed by clicking the link to the Office of Design and Engineering Standards (CG–ENG) under the ''Units,'' ''USCG Headquarters Organization,'' and ''CG–5P'' tabs, and scrolling down to ''Policy Documents.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or CG–ENG Policy Letter 02–12, call or email Lieutenant Commander Heather Mattern, Human Element and Ship Design Division (CG–ENG–1), telephone (202) 372–1361, or email *Heather.R.Mattern@uscg.mil*. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Foreign documented MODUs engaged in any offshore activity associated with the exploration for, or development or production of, the minerals of the U.S. Outer Continental Shelf (OCS) must comply with one of three options outlined in 33 CFR 143.207, which deal with design and equipment standards. The majority of foreign MODU operators on the OCS choose to comply with 33 CFR 143.207(c), often referred to as ''Option C.'' When choosing this option, MODU operators present the OCMI with a valid MODU Code Certificate issued by the flag state or an agent authorized to act on its behalf. Existing regulation and policy permits MODUs to comply with the design and equipment standards in the 1979 MODU Code or 1989 MODU Code.

The Coast Guard has evaluated the 2009 MODU Code, which applies to MODUs, the keels of which are laid or at a similar stage of construction on or after January 1, 2012. The Coast Guard considers the design and equipment standards of the 2009 MODU Code to be at least as effective as the design and equipment standards of the 1979 and

1989 MODU Codes. Therefore, OCMIs may consider a foreign MODU with a valid 2009 MODU Code Certificate issued by the flag state or its authorized agent to be compliant with 33 CFR 143.207(c) after confirming that the MODU is in substantial compliance with the provisions of the 2009 MODU Code.

The guidance in this notice and CG–ENG Policy Letter 02–12 is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally binding requirements on any party outside the Coast Guard. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and State regulators, in applying statutory and regulatory requirements.

This notice is issued under authority of 43 U.S.C. 1331, et seq., 5 U.S.C. 552(a), and 33 CFR 1.05–1.

Dated: July 12, 2012.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2012–17572 Filed 7–20–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Devices Known as ''Pwn Plugs''

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain devices known as Pwn Plugs. Based upon the facts presented, CBP has concluded that the programming operations performed in the United States, using U.S.-origin software, substantially transform non-TAA country microcomputer devices. Therefore, the country of origin of Pwn Plugs is the United States for purposes of U.S. Government procurement.

DATES: The final determination was issued on July 13, 2012. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before August 22, 2012.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Valuation and Special Programs Branch: (202) 325–0034.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on July 13, 2012, pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain devices known as Pwn Plugs which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ H215555, was issued under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the programming operations performed in the United States, using U.S.-origin software, substantially transform non-TAA country microcomputer devices. Therefore, the country of origin of the Pwn Plugs is the United States for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: July 13, 2012.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H215555

July 13, 2012

MAR OT:RR:CTF:VS H215555 HkP

CATEGORY: Origin

Mr. Dave Porcello
CEO, Pwnie Express
Rapid Focus Security, LLC
27 French Street
Barre, VT 05641

RE: U.S. Government Procurement; Trade Agreements Act; Country of Origin of the ''Pwn Plug''; Substantial Transformation

Dear Mr. Porcello: This is in response to your undated letter, received on April 20, 2012, requesting a final determination on behalf of Rapid Focus Security, LLC, dba Pwnie Express (''Pwnie Express''), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection (''CBP'') Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (''TAA''), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the ''Pwn Plug''. As a U.S. importer, Pwnie Express is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The Pwn Plug is described as a full security testing suite packed into a micro-server the size of a power brick that provides covert, encrypted access over Ethernet, wireless and 3G/GSM connections. Its proprietary software is designed to conduct cyber security audits (''penetration tests'') of computer networks, including password auditing, vulnerability checking, network traffic inspecting, wireless network analysis, network port/service scanning, and firewall rule validating. The Pwn Plug runs on the publicly available off-the-shelf SheevaPlug computer platform (a microcomputer device that runs network-based software services that normally require a dedicated computer) made in China. Various types of wireless adapters and an external storage card can be attached to the Pwn Plug by the end-user. There are two versions of the Pwn Plug: the Pwn Plug Wireless, and the Pwn Plug Elite, both referred to herein as the Pwn Plug.

Pwnie Express imports SheevaPlug microcomputer devices from China that measure 4.3 x 2.7 x 1.9 inches and contain a central processing unit, memory chips (SDRAM and HDD), and a SDHC/SDIO card slot for disk and Input/Output expansion. Pwnie Express removes all software from the SheevaPlugs, including their operating systems, and programs them with the following software: Marvell/DENX U-boot environment (BIOS); Linux Kernel package; Ubuntu/Debian Linux open-source base operating system; Open-source security testing suite; Pwnie Express web User Interface; and, Pwnie Express remote access scripts. The Linux software and the other open-source tools were developed by the worldwide open-source community. The role of this software is to provide the basic operating system environment and the security tools needed to perform standard cyber security penetration tests. The role of Pwnie Express' proprietary software, developed entirely in the U.S., is to conduct the actual penetration tests of computer networks. It provides secure and reliable remote access over a variety of network protocols and customer environments and has its own interface for web-based configuration and set-up. Software installation takes approximately two hours. Product literature and packaging are printed

in the United States. Each Pwn Plug is then packaged for sale together with a USB adapter made in China, a USB Ethernet adapter made in China, a USB modem made in China, a 16GB SD card made in Taiwan, various cables made in China, and the product literature printed in the U.S.

ISSUE:

What is the country of origin of the Pwn Plug for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Data General v. United States,* 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The programming bestowed upon each circuit its electronic function, that is, its ''memory'' which could be retrieved. A distinct physical change was effected in the PROM by the opening or closing of the fuses, depending on the method of programming. This physical alteration, not visible to the naked eye, could be discerned by electronic testing of the PROM. The court noted that the programs were designed by a U.S. project engineer with many years of experience in ''designing and building hardware.'' While replicating the program pattern from a ''master'' PROM may be a quick one-step process, the development of the pattern and the production of the ''master'' PROM required much time and expertise. The court noted that it was undisputed that programming altered the character of a PROM. The essence of the article, its interconnections or stored memory, was established by programming. The court concluded that altering the non-functioning circuitry comprising a PROM through technological expertise in order to produce a functioning read only memory device, possessing a desired distinctive circuit pattern, was no less a ''substantial transformation'' than the manual interconnection of transistors, resistors and diodes upon a circuit board creating a similar pattern.

In *Texas Instruments v. United States,* 681 F.2d 778, 782 (CCPA 1982), the court observed that the substantial transformation issue is a ''mixed question of technology and customs law.''

In C.S.D. 84–85, 18 Cust. B. & Dec. 1044 (Apr. 2, 1984), CBP stated:

We are of the opinion that the rationale of the court in the *Data General* case may be applied in the present case to support the principle that the essence of an integrated circuit memory storage device is established by programming . . . . [W]e are of the opinion that the programming (or reprogramming) of an EPROM results in a new and different article of commerce which would be considered to be a product of the country where the programming or reprogramming takes place.

Accordingly, the programming of a device that changes or defines its use generally constitutes substantial transformation. *See also* Headquarters Ruling Letter (''HQ'') 558868, dated February 23, 1995 (programming of SecureID Card substantially transforms the card because it gives the card its character and use as part of a security system and the programming is a permanent change that cannot be undone); HQ 735027, dated September 7, 1993 (programming blank media (EEPROM) with instructions that allow it to perform certain functions that prevent piracy of software constitute substantial transformation); and, HQ 733085, dated July 13, 1990; *but see* HQ 732870, dated March 19, 1990 (formatting a blank diskette does not constitute substantial transformation because it does not add value, does not involve complex or highly technical operations and did not create a new or different product); HQ 734518, dated June 28, 1993, (motherboards are not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imports it).

HQ H052325, dated February 14, 2006, concerned the country of origin of a switch and a switch/router. The Brocade 7800 Extension Switch was assembled to completion in China and programmed in the U.S. with U.S.-origin operating system (OS) software and customer specified firmware and software. The Brocade FX8–24 switch/router contained a PCBA that was assembled and programmed in China and shipped to the U.S., where it was assembled with other components to make the final product. The completed unit was then programmed with U.S.-origin OS software and customer firmware and software. In both cases, the U.S.-origin OS software provided the devices with their functionality. Customs found that in both cases, the processing performed in the United States, including the downloading of the U.S.-origin OS software, resulted in a substantial transformation of the foreign origin components, and that the United States was the country of origin.

In HQ H014068, dated October 9, 2007, CBP determined that a cellular phone designed in Sweden, assembled in either China or Malaysia and shipped to Sweden, where it was loaded with software that enabled it to test equipment on wireless networks, was a product of Sweden. Once the software was installed on the phones in Sweden, they became devices with a new name, character and use, that is, network testing equipment. As a result of the programming operations performed in Sweden, CBP found that the country of origin of the network testing equipment was Sweden.

In HQ H175415, dated October 4, 2011, hardware components were assembled into complete Ethernet switches in China. The switches were then shipped to the U.S., where they were programmed with EOS software, developed in the U.S. The U.S.-origin EOS software enabled the imported switches to interact with other network switches through network switching and routing, and allowed for the management of functions such as network performance monitoring and security and access control. Without this software, the imported devices could not function as Ethernet switches. As a result of the programming performed in the U.S., with software developed in the U.S., CBP found that the imported switches were substantially transformed in the U.S.

Similarly, in this case, fully assembled SheevaPlug microcomputer devices are imported into the United States, where they are programmed with Pwnie Express proprietary software developed in the U.S. The custom software provides a web-based interface for configuring the microcomputer devices into Pwn Plugs. In addition, the U.S. software allows Pwn Plugs to provide secure, persistent and reliable remote access over a variety of network protocols and customer environments. Without the U.S.-origin Pwnie Express software, an imported microcomputer device could not function as a Pwn Plug. As a result of the programming performed in the U.S., with software developed in the U.S., we find that the imported microcomputer devices are

substantially transformed in the U.S. *See Data General,* C.S.D. 84–85, HQ 052325, HQ 558868, HQ 735027, and HQ 733085. The country of origin of Pwn Plugs is the United States.

When the U.S.-origin Pwn Plugs are packaged together with cables, wireless adaptors and modems from China and memory cards from Taiwan, we find that the essential character of the products offered for sale is provided by the U.S.-origin Pwn Plugs. ''The term 'character' is defined as 'one of the essentials of structure, form, materials, or function that together make up and usually distinguish the individual.''' *Uniden America Corporation v. United States,* 120 F. Supp. 2d. 1091, 1096 (citations omitted) (Ct. Int'l Trade 2000), *citing National Hand Tool Corp. v. United States,* 16 Ct. Int'l Trade 308, 311 (1992). In *Uniden* (concerning whether the assembly of cordless telephones and the installation of their detachable A/C (alternating current) adapters constituted instances of substantial transformation), the Court of International Trade applied the ''essence test'' and found that ''[t]he essence of the telephone is housed in the base and the handset. Consumers do not buy the article because of the specific function of the A/C adapter, but rather because of what the completed handset and base provide: communication over telephone wires.'' *Id.* at 1096.

We also find that the memory cards from Taiwan and the cables, wireless adaptors, and modems from China are substantially transformed with the Pwn Plug, in that they have a new character, use and name because they are attached to the Pwn Plug. *See Uniden, supra,* in which the court also found that the detachable A/C adapters underwent a substantial transformation pursuant to the Generalized System of Preferences (GSP) when attached to the cordless telephones. The court noted that the substantial transformation test is to be applied to the product as a whole and not to each of its detachable components. *See id.* Consequently, the court found that the A/C adapter, as part of the cordless phone, had a new character, use and name. *See also* HQ H100055, dated May 28, 2010, in which CBP found that a detachable hand control and battery charger were substantially transformed when attached to a lift unit. In addition, the Court in *Uniden* noted that the cordless telephone with its detachable components was a ''GRI 1 article'' and not a set, mixture or composite good. *Id.* at 1099–1100 (addressing the applicability of T.D. 91–7, Cust. B. 7, entitled ''Eligibility of Sets, Mixtures and Composite Goods for Special Tariff Treatment Programs'' to the cordless telephones at issue, the Court noted that ''[i]f the Department of Treasury had meant for T.D. 91–7 to apply to GRI 1 articles, it would not have chosen to make frequent use of the very specific language 'sets, mixtures and composite goods' throughout T.D. 91–7.''). Likewise, in this instance, we find that when Pwn Plugs are packaged together with cables, wireless adaptors, modems, and memory cards they are GRI 1 articles.

Based on the findings of the court in *Uniden,* we find that the cables, wireless adaptors, modems, and memory cards are substantially transformed when attached to Pwn Plugs. Moreover, they are packaged together with Pwn Plugs and offered for sale as GRI 1 articles. Consequently, the country of origin of Pwn Plugs for purposes of U.S. government procurement will be the United States.

Please contact the Trade Commission, Division of Enforcement, 6th and Pennsylvania Avenue NW, Washington, DC 20508, on whether the Pwn Plugs may be marked ''Made in the U.S.A.''

HOLDING:

Based on the facts provided, the programming operations performed in the United States impart the essential character to Pwn Plugs. As such, Pwn Plugs are considered products of the United States for purposes of U.S. Government procurement. Moreover, because Pwn Plugs convey the essential character of the retail products, and the adapters, modems and memory cards are used with the Pwn Plugs, they are substantially transformed when attached to the Pwn Plugs. The country of origin of the adapters, modems and memory cards for purposes of U.S. government procurement, when packaged with Pwn Plugs, is the United States.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell, Executive Director,

Regulations and Rulings, Office of International Trade.

[FR Doc. 2012–17805 Filed 7–20–12; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

Tribal Consultation Sessions—Department of the Interior Information Technology Infrastructure Consolidation and Reorganization—Amendment

AGENCY: Office of the Assistant Secretary for Policy, Management and Budget, Interior.

ACTION: Notice of meetings; Amendment.

SUMMARY: The Office of the Assistant Secretary for Policy, Management and Budget hosted a tribal consultation session on June 13, 2012, at the Office of the Special Trustee in Albuquerque, NM. This amendment includes additional tribal consultation sessions. The purpose of the sessions is to obtain tribal input on the 2012 Information Technology transformation realignment proposal as well as on how Information Technology transformation should be implemented in the coming years.

DATES: See the **SUPPLEMENTARY INFORMATION** section of this notice for dates of the tribal consultation sessions. We will consider all comments received by close of business on August 22, 2012.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section of this notice for locations of the tribal consultation sessions. Submit comments by email to: ITT_consultation@ios.doi.gov or by U.S. mail to: IT Transformation Comments, Office of the Chief Information Officer, U.S. Department of the Interior, Mail Stop 7454, MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Andrew Jackson, Deputy Assistant Secretary for Technology, Information and Business Services, (202) 208–7966.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Policy, Management and Budget will be hosting the following tribal consultation sessions and invites tribal leaders to participate:

CONSULTATION SCHEDULE

Date	Time	Location
August 14, 2012	1:30 p.m.–3:30 p.m.	National Indian Programs Training Center, 1011 Indian School Road NW., Suite 254, Albuquerque, NM 87104.
August 21, 2012	1:30 p.m.–3:30 p.m.	Hilton Sacramento Arden West, 2200 Harvard Street, Sacramento, CA 95815.
August 23, 2012	1:30 p.m.–3:30 p.m.	Mystic Lake Casino Hotel, 2400 Mystic Lake Boulevard, Prior Lake, MN 55372.

The agenda topics for each session will be:

Overview of IT Transformation Reorganization and Consolidation Proposal

IT Transformation and Indian Preference Positions

IT Transformation and Native-owned business contracting strategy

IT Transformation Customer Council and Ensuring Service Delivery

A brief description of each of the topics is provided below. Additional information is posted at: *http://www.doi.gov/ocio/it-transformation.cfm.*

Overview of IT Transformation Reorganization and Consolidation Proposal: The Assistant Secretary for Policy, Management and Budget is seeking tribal input on the current proposal to transfer IT infrastructure personnel, assets, and contracts from bureaus and offices to a newly established IT Shared Service Center in the Office of the Chief Information Officer (OCIO).

IT Transformation and Indian Preference Positions: Although analysis is still underway to determine the final number of impacted positions, approximately 125 Indian Preference positions would be transferred to the OCIO from the Assistant Secretary for Indian Affairs, Bureau of Indian Affairs, Bureau of Indian Education, and Office of Special Trustee. It is DOI's intention to maintain all of these positions as Indian Preference in the IT Shared Service Center. The Assistant Secretary for Policy, Management and Budget is seeking tribal input on the proposed approach to transfer Indian Preference positions into the IT Shared Service Center.

IT Transformation and Native-owned business contracting strategy: The Department of the Interior is committed to ensuring that Native-owned businesses will be engaged in the implementation of IT transformation. The Assistant Secretary for Policy, Management and Budget seeks tribal input on the IT transformation contracting strategy as it relates to Native-owned businesses.

IT Transformation Customer Council and Ensuring Service Delivery: To ensure that bureau and office IT infrastructure needs are met to ensure mission continuity, a Customer Council will be established. The Assistant Secretary for Policy, Management and Budget seeks tribal input on how the Customer Council is established and operated to ensure responsiveness to tribes' needs.

Rhea Suh,

Assistant Secretary for Policy, Management and Budget.

[FR Doc. 2012–17914 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–RH–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2012–N148; FXES11130200000F5–123–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. The Act and the National Environmental Policy Act also require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before August 22, 2012.

ADDRESSES: Marty Tuegel, Section 10 Coordinator, by U.S. mail at Division of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM at (505) 248–6920. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–6651.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits. A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–039571

Applicant: Garcia and Associates, Arcata, California.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, California, and Nevada.

Permit TE–841359

Applicant: U.S. Department of Agriculture, Gila National Forest, Silver City, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys and monitoring of loach minnow (*Tiaroga cobitis*) and spikedace (*Meda fulgida*) within New Mexico.

Permit TE–819471

Applicant: SWCA, Inc., Salt Lake City, Utah.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of black-footed ferret (*Mustela nigripes*), Kanab ambersnail (*Oxyloma haydeni kanabensis*), southwestern willow flycatcher (*Empidonax trailii extimus*), and Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona, Nevada, and Utah.

Permit TE–028605

Applicant: SWCA, Inc., Flagstaff, Arizona.

Applicant requests an amendment to a current permit for research and

recovery purposes to conduct presence/absences surveys of loach minnow (*Tiaroga cobitis*) and spikedace (*Mega fulgida*) within Arizona.

Permit TE–054791

Applicant: Bryce Marshall, Flagstaff, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absences surveys of loach minnow (*Tiaroga cobitis*) and spikedace (*Mega fulgida*) within Arizona.

Permit TE–045236

Applicant: SWCA, Inc., Albuquerque, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absences surveys of loach minnow (*Tiaroga cobitis*) and spikedace (*Mega fulgida*) within Arizona.

Permit TE–814829

Applicant: Oklahoma Department of Wildlife Conservation, Oklahoma City, Oklahoma.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Oklahoma:

- American burying beetle (*Nicrophorus americanus*)
- Interior least tern (*Sternula antillarum*)
- Red-cockaded woodpecker (*Picoides borealis*)
- Whooping crane (*Grus americana*)

Permit TE–094375

Applicant: Azimuth Forestry Services, Shelbyville, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys and collect plant material (*leaves, flowers*) of white bladderpod (*Physaria pallida*) within Texas.

Permit TE–75972A

Applicant: Western New Mexico University, Silver City, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and monitoring for repatriation of loach minnow (*Tiaroga cobitis*) and spikedace (*Mega fulgida*) within New Mexico.

Permit TE–012642

Applicant: Blue Earth Ecological Consultants, Santa Fe, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax trailii extimus*) in Arizona and spikedace (*Mega fulgida*) within New Mexico and Arizona.

Permit TE–77222A

Applicant: Clinton Moran, Flagstaff, Arizona.

Applicant requests a new permit for research and recovery purposes to acquire 500 fertilized eggs from the Bubbling Ponds Native Fish Hatchery in Arizona, which will be reared to conduct feeding and swimming trials at Nothern Arizona University, Arizona.

Permit TE–58781A

Applicant: University of Arizona, Tucson, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys using camera surveys, scat collection, possession of samples for DNA analysis, and genetic analysis for ocelot (*Leopardus pardalis*), jaguarundi (*Herpailurus yagouaroundi*), and jaguar (Panthera onca) within New Mexico.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: July 11, 2012.

Benjamin N. Tuggle,

Regional Director, Southwest Region.

[FR Doc. 2012–17873 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2012–N173; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before August 22, 2012. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by August 22, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of

applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Damuth Taxidermy, Brady, TX; PRT–75675A

The applicant requests a permit to export the sport-hunted trophy/trophies of one scimitar-horned oryx (*Oryx dammah*) and one addax (*Addax nasomaculatus*) culled from a captive herd maintained in the state of Sonora, TX, for the purpose of enhancement of the survival of the species.

Applicant: University of Florida, Davie, FL; PRT–71355A

The applicant requests a permit to import biological samples of American crocodile (*Crocodylus acutus*) from Belize for the purpose of enhancement of the species through scientific research. This notification covers activities conducted by the applicant over a 5-year period.

Applicant: Rosamond Gifford Zoo at Burnet Park, Syracuse, NY; PRT–79875A

The applicant requests a permit to export one male captive-born golden lion tamarin (*Leontopithecus rosalia*) to the Melbourne Zoo, Australia, for the purpose of enhancement of the species through captive breeding.

Applicant: Utah's Hogle Zoo, Salt Lake City, UT; PRT–79305A

The applicant requests a permit to export one female captive-born golden lion tamarin (*Leontopithecus rosalia*) to the Melbourne Zoo, Australia, for the purpose of enhancement of the species through captive breeding.

Applicant: Dr. Muehlenbein, Indiana University, Bloomington, IN; PRT–77006A

The applicant requests a permit to import orangutan (*Pongo pygmaeus*) and proboscis monkey (*Nasalis larvatus*) biological samples from Malaysia for the purpose of enhancement to the survival of the species through scientific research. This notification covers activities to be conducted by the applicant over a 1-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Bruce Soik, Stevens Point, WI; PRT–73636A

Applicant: Carey Adams, Greenville, SC; PRT–72621A

B. Endangered Marine Mammals and Marine Mammals

Applicant: John Wise, Ph.D., University of Southern Maine, Portland, ME; PRT–100875

The applicant requests renewal of the permit to authorize import, export, and acquisition of biological samples from marine otter (*Lontra felina*), all sea otters (*Enhydra lutris*), walrus (*Odobenus rosmarus*), polar bear (*Ursus maritimus*), all manatee species (*Trichechus* spp.), and dugongs (*Dugong dugon*) to create cell lines for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–17888 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–WO–IA–2012–N172; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and

Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) the application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

Permit number	Applicant	Receipt of application Federal Register notice	Permit issuance date
57926A	Zoological Society of San Diego	77 FR 6139; February 7, 2012	May 24, 2012.
66555A	James McNicol	77 FR 15383; March 15, 2012	June 28, 2012.
73008A	University of South Carolina	77 FR 30547; May 23, 2012	July 6, 2012.

MARINE MAMMALS

Permit number	Applicant	Receipt of application Federal Register notice	Permit issuance date
063561	Edmund Gerstein, Florida Atlantic University	77 FR 22604; April 16, 2012	June 28, 2012.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–17889 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX11AA0000A1300]

Announcement of the U.S. Geological Survey Science Strategy Planning Feedback Process

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of feedback process.

SUMMARY: The U.S. Geological Survey is creating 10-year strategies for each of its Mission Areas: Climate and Land Use Change, Core Science Systems, Ecosystems, Energy and Minerals, Environmental Health, Natural Hazards, and Water. This process involves gathering input from the public on draft strategy documents. Feedback can be offered at *http://www.usgs.gov/start_with_science.*

DATES: The comment period on questions and drafts has been extended to midnight on September 1, 2012.

FOR FURTHER INFORMATION CONTACT: Listed below are contacts for each USGS Mission Area:

- **Global Change**

Virginia Burkett: 318–256–5628, *virginia_burkett@usgs.gov.*
Dave Kirtland: 703–648–4712, *dakirtland@usgs.gov.*

- **Core Science Systems**

Sky Bristol: 303–202–4181, *sbristol@usgs.gov.*
Chip Euliss: 701–253–5564, *ceuliss@usgs.gov.*

- **Ecosystems**

Gary Brewer: 304–724–4507, *gbrewer@usgs.gov.*
Ken Williams: 703–648–4260, *byron_ken_williams@usgs.gov.*

- **Energy and Minerals**

Jon Kolak: 703–648–6972, *jkolak@usgs.gov.*
Rich Ferrero: 206–220–4574, *rferrero@usgs.gov.*

- **Environmental Health**

Herb Buxton: 609–771–3944, *hbuxton@usgs.gov.*
Patti Bright: 703–648–4238, *pbright@usgs.gov.*

- **Natural Hazards**

Lucy Jones: 626–583–7817, *jones@usgs.gov.*
Bob Holmes: 573–308–3581, *bholmes@usgs.gov.*

- **Water**

Eric Evenson: 609–771–3904, *eevenson@usgs.gov.*
Randy Orndorff: 703–648–4316, *rorndorf@usgs.gov.*

SUPPLEMENTARY INFORMATION: Feedback can be offered and additional information accessed at *www.usgs.gov/start_with_science.*

Dated: July 12, 2012.

Barbara Wainman,

USGS Associate Director for Communications and Publishing.

[FR Doc. 2012–17832 Filed 7–20–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal—State Class III Gaming Compact.

SUMMARY: This notice publishes an extension of Gaming between the Rosebud Sioux Tribe and the State of South Dakota.

DATES: *Effective Date:* July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This amendment allows for the extension of the current Tribal-State Compact until August 24, 2012.

Dated: July 17, 2012.

Donald E. Laverdure,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 2012–17829 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal—State Class III Gaming Compact; Correction.

SUMMARY: The Bureau of Indian Affairs (BIA) published a document in the **Federal Register** of July 12, 2012, providing notice that the Tribal—State Class III Gaming Compact between the State of California and the Federated Indians of Graton Rancheria was approved. That notice incorrectly stated that the approved document was an extension and did not make clear that the document was deemed approved.

DATES: *Effective Date:* July 12, 2012.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 12, 2012, in FR Doc. 2012–17042, make the following corrections:

1. On page 41200, in the first column, replace the phrase in the **ACTION** section with the following phrase: ''Notice of Tribal—State Class III Gaming Compact taking effect.''

2. On page 41200, in the first column, replace the sentence in the **SUMMARY** section with the following sentence: ''This provides notice that the Tribal—State Class III Gaming Compact between the State of California and the Federated Indians of Graton Rancheria is considered to have been approved and is in effect.''

3. On page 41200, in the second column, replace the sentence ''This Compact is considered to have been approved but only to the extent that the Compact is consistent with the provisions of IGRA'' with the following two sentences:

''The Acting Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, did not approve or disapprove the compact within 45 days after the date the compact was received. Therefore, pursuant to 25 U.S.C. 2710(d)(8)(C), the Compact is considered to have been approved, but only to the extent that the Compact is consistent with the provisions of IGRA.''

Dated: July 16, 2012.

Donald E. Laverdure,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2012–17823 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML00000 L13300000.BY0000]

Notice of Extension of Temporary Closure to All Public Use on Public Land in Doña Ana County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Las Cruces District Office, is extending a temporary closure for an additional 2 years to all public use, including casual use, to protect persons, property, and public land and resources, and generally to provide for public safety. Specifically, the extension of the closure is needed to reduce or prevent the opportunity for damage to property, personal injury, or loss of life in the vicinity of the Community Pit No. 1 in Doña Ana County, New Mexico

DATES: This closure will be in effective from July 23, 2012 to July 22, 2014. During the closure period, the BLM will mitigate the safety issue in this area through reclamation of the site.

FOR FURTHER INFORMATION CONTACT: Edward Seum, Lands and Minerals Supervisor, BLM Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005; or by telephone at 575–525–4300. 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 BLM published its original closure notice in the **Federal Register** on June 28, 2010 (76 FR 36677). The Las Cruces District Office has initiated the development of a reclamation plan to determine how the site will be reclaimed. However, this planning effort, the acquisition of funds, and the reclamation process itself will require additional time to complete.

The temporary closure and restrictions applicable to the closure are as follows:

1. The public land to be closed under this notice is described as:

New Mexico Principal Meridian

T. 22 S., R. 1 E.,
Sec. 19, SW¼NW¼SE¼, E½E½SW¼SW¼SE¼, E½SW¼SE¼, S½N½SE¼SE¼, S½SE¼SE¼, E½NW¼SW¼SE¼.

Containing 67.5 acres, more or less.

All public use, including casual use, is prohibited on this 67.5-acre parcel. Casual use is defined as any short-term, non-commercial activity which does not noticeably damage or disturb the public land, resources, or improvements. Closure of this parcel is a consequence of unsafe conditions related to past mining resulting in steep highwalls in excess of 150 feet, abrupt precipices and ledges, and loose unconsolidated walls of rock.

2. This closure does not affect the ability of local, State, or Federal officials in the performance of their duties in the area.

3. This Notice will be posted along the public roads where this closure is in effect.

4. The following persons are exempt from this closure order:

a. Federal, State, or local law enforcement officers while acting within the scope of their official duties; and

b. Any person who obtains, or currently is in possession of, an authorization or permit from the BLM for use of the land identified in this closure.

Violations of this closure and restrictions are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 1 year. These actions are taken to protect public health and safety.

The Las Cruces District Office has completed Environmental Assessment (EA) (DOI–BLM–NM–LCDO–2010–0086–EA) to close the pit to public use, evaluating the potential reclamation of the site, and analyzing the hazards to public health and safety until such time as reclamation of the site would be completed, or for 2 years, whichever is later.

Copies of this closure order and maps showing the location are available from the Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005.

Authority: 43 CFR 8364.1 and 18 U.S.C. 3551.

Bill Childress,

District Manager, Las Cruces.

[FR Doc. 2012–17851 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC69996]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC69996

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC69996 from SWEPI LP, for lands in Huerfano County, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC69996 effective March 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated:July 18, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–17845 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC66018]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC66018

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC66018 from Robert P. Kirgan, for lands in Rio Blanco, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC66018 effective June 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: July 18, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–17843 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC73875]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC73875

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC73875 from Baseline Minerals, Inc., for lands in Morgan County, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC73875 effective April 1, 2012, under the original terms and conditions of the lease and the

increased rental and royalty rates cited above.

Helen M. Hankins,

State Director.

[FR Doc. 2012–17931 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC69997]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC69997

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC69997 from SWEPI LP, for lands in Huerfano County, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC69997 effective March 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: July 18, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–17913 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC66019]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC66019

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC66019 from Robert P. Kirgan, for lands in Rio Blanco, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC66019 effective June 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: July 18, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–17912 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC66020]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC66020

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC66020 from Robert P. Kirgan, for lands in Rio Blanco, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC66020 effective June 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: July 18, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–17903 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC66025]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC66025

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC66025 from Robert P. Kirgan, for lands in Rio Blanco, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Milada Krasilinec, BLM Land Law Examiner, Fluid Minerals Adjudication, at 303–239–3767.

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 lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC66025 effective June 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–17930 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES002000.L1430000.ES0000; FLES 057504–01]

Notice of Realty Action for Lease and Conveyance of Public Land in Volusia County, Florida

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for lease and conveyance to the County of Volusia, Coastal Division, under the provisions of the Recreation and Public Purposes (R&PP) Act and the Taylor Grazing Act, approximately 75 acres of public land on Ponce de Leon Inlet, New Smyrna Beach, Volusia County, Florida.

DATES: Interested parties may submit written comments regarding this proposed classification for lease/conveyance of public land until September 6, 2012.

ADDRESSES: Please submit your written comments to the Field Manager, Bureau of Land Management—Eastern States (BLM–ES), Southeastern States Field Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206. Comments received in electronic form such as email or facsimile will not be considered.

FOR FURTHER INFORMATION CONTACT: Vicky Craft, BLM–ES Southeastern States Field Office, at 601–977–5435, or at the address above. 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. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is authorized to lease or convey certain public lands to State and local governmental agencies and to nonprofit corporations and associations for recreation and public purposes under the R&PP Act of June 14, 1926 (43 U.S.C. 869). Applicable authorities include: Policies pertaining to the BLM's implementation of the R&PP Act (43 CFR 2740.0–6); lands subject to disposition (43 CFR 2741.1); and the guidelines for lease and conveyance (43 CFR 2741.5) under the Act. Additionally, the Taylor Grazing Act of 1934 (43 U.S.C 315f), as amended is the authority for classification of lands. Executive Order No. 6964 withdrew public lands in 12 states, including Florida. In accordance with the above-cited authorities, the following described public land in Volusia County, Florida, has been examined and found suitable for classification for lease and/or conveyance:

Tallahassee Meridian

T. 16 S., R. 34 E.,
Sec. 32, lot 1;
Sec. 33, lot 1.

Except that portion used for the United States Coast Guard (USCG) Station Ponce de Leon Inlet, and that portion used by National Aeronautics and Space Administration (NASA) pursuant to USCG license. More particularly described as: All that land in Sections 32 and 33, T. 16 S., R. 34 E. bounded on the South by township line 16 South, on the east, north and west by the mean high water lines of the Atlantic Ocean, the Inlet, and the Hillsboro River Respectively. Beginning at a point where the township line between Section 32, Township 16 South, Range 34 East, and Section 5, Township 17 South, Range 34 East, intersects the East shoreline of Hillsboro River or Indian River North; thence due East on said township line 700 ft. to a stake; thence South 45 degrees East 625 feet to a stake; thence due West parallel with said township line 700 ft. to the shoreline of said Hillsboro River or Indian River North; thence Northwesterly along shoreline of Hillsborough River or Indian River North to Point of Beginning. The area described contains approximately 75 acres in Volusia County.

The land is located on the north end of New Smyrna Beach and south of the inlet along the Atlantic Ocean shoreline. The land is currently withdrawn on behalf of the USCG for Coast Guard purposes by Executive Order No. 4084, dated October 10, 1924, and previously reserved for lighthouse purposes by Executive Order dated July 25, 1842. Written consent obtained from the USCG Commander allows these lands to be available for lease and/or conveyance under the R&PP Act. The proposed site for lease and/or conveyance would provide the necessary land to maintain

and expand operation of the Smyrna Dunes Park. The park is currently used by Volusia and surrounding county residents for recreation compatible with the preservation of its resources. Such recreational use includes nature study, bird watching, hiking and fishing. On-site facilities include parking, restrooms, boardwalks, picnic pavilion, and an office.

Lease of the land to the County is consistent with the BLM Florida Resource Management Plan, dated June 21, 1995, and would be in the public interest. Additional detailed information pertaining to this application, including a plan of development, a map depicting the public land, and the management plan are available for review at the BLM–ES Southeastern States Field Office at the address above.

The County has not applied for more than the 6,400-acre limit for recreation uses in one year, and has submitted a statement describing the proposed use of the land in compliance with 43 CFR 2741.4, which stipulates lease application procedures.

If issued to the County, the lease or patent would be subject to the following terms, conditions and reservations to the United States:

1. Provisions of the R&PP Act of 1926, as amended, and all applicable regulations of the Secretary of the Interior, including, but not limited to, those patent provisions as noted in 43 CFR 2741.9;

2. Valid existing rights;

3. A reservation of all minerals by the United States, together with the right to prospect, mine and remove the minerals;

4. Terms and conditions identified through the site-specific environmental analysis;

5. Any other rights or reservations that the authorized officer deems appropriate to ensure public access and proper management of Federal land and interest therein; and

6. An appropriate indemnification clause protecting the United States from claims arising out of the lessee/patentee's use, occupancy, or operations on the leased/patented lands.

The land described above remains segregated from all other forms of disposal or appropriation under the public land laws, including the United States mining laws, except for leasing under the mineral leasing laws and conveyance under the R&PP Act.

Classification Comments: Interested persons may submit comments involving the suitability of the land for a public park. Comments on the classification are restricted to whether (1) The land is physically suited for the proposal; (2) The use will maximize the future use or uses of the land; (3) The use is consistent with local planning and zoning; or (4) The use is consistent with State and Federal programs.

Application Comments: Interested persons may submit comments regarding the specific use proposed in the application and plan of development and the management plan, whether the BLM followed proper administrative procedures in reaching the decision to lease and later convey under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

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 in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any adverse comments will be reviewed by the BLM–ES State Director. In the absence of any adverse comments, the classification of the land described in the notice will not become effective until September 21, 2012. The land will not be leased or conveyed until after the classification becomes effective.

Authority: 43 CFR subpart 2741, 43 U.S.C. 869 *et seq.*

Bruce E. Dawson,

Southeastern States Field Office Manager.

[FR Doc. 2012–17848 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZC02000 LF2200000.DD0000 LFESF3X30000]

Notice of Temporary Closure of Betty's Kitchen Wildlife and Interpretive Area, Yuma County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Land Policy and Management Act and Bureau of Land Management (BLM) regulations, notice is hereby given that the Betty's Kitchen Wildlife and Interpretive Area (Betty's Kitchen) located on Federal lands administered by the Yuma Field Office, BLM, is temporarily closed to motorized vehicle and public use.

DATES: The closure will be enforced immediately and will remain in effect for 2 years following the date this notice is published in the **Federal Register** or until rescinded or modified by the authorized officer or designated Federal officer.

FOR FURTHER INFORMATION, CONTACT: John MacDonald, Yuma Field Manager, at 2555 East Gila Ridge Road, Yuma, Arizona 85365, via email at *jmacdona@blm.gov,* or telephone 928–317–3200. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This Temporary Closure affects Federal lands at Betty's Kitchen in Yuma County, Arizona. The legal description of the affected Federal lands is:

Arizona

Gila and Salt River Meridian

Township 7 South, Range 22 West,
Section 14, SE¼SW¼ (within),
SW¼SE¼ (within).

The area described contains approximately 15 acres.

Closure of Betty's Kitchen is necessary to allow for the restoration of the area and avoid exposing the public to safety hazards caused by the Laguna Fire.

The BLM Laguna Emergency Stabilization and Rehabilitation Environmental Assessment (EA) (DOI–BLM–AZ–C020–2011–0018–EA) signed on September 28, 2011, states, ''Human health and safety would be greatly affected from the remaining hazardous trees throughout the project area. Unless hazardous trees are removed, the recreation area would need to remain closed to the public.'' In order to implement the EA's proposed remediation actions, unscheduled heavy equipment may be operating in the area to remove the hazards over the next 2 years as funding and scheduling opportunities allow. A temporary closure is needed to reduce or eliminate the likelihood of accidents to visitors while fishing, picnicking, camping, or pursuing other activities in the vicinity of the existing and static hazards before or while work is occurring. In addition, improvements to recreational facilities and the addition of new bridges will enhance visitor enjoyment and safety when completed. Immediately after the

removal and hazard remediation work is completed, the closure will be lifted.

Exemptions: The following persons are exempt from this order: Federal, State, and local law enforcement officers and employees in the performance of their official duties; members of organized rescue or firefighting forces in the performance of their official duties; and persons with written authorization from the BLM.

Penalties: Any person who violates the above rule may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Violators may also be subject to the enhanced fines provided for in 18 U.S.C. 3571.

Authority: 43 CFR 8364.1.

John MacDonald,

Field Manager.

[FR Doc. 2012–17849 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–10740; 2200–1100–665]

Notice of Inventory Completion: The University of Montana, Missoula, MT; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects in the possession of The University of Montana, Missoula, MT. The human remains and associated funerary objects were removed from various locations in western Montana.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects previously published in a Notice of Inventory Completion in the **Federal Register** (68 FR 50187–50189, August 20, 2003). In 2009 and 2011, associated funerary objects for human remains (UMFC01, UMFC24, and 24MO1071) were discovered in the University of Montana's collection. This notice also corrects the minimum number of individuals by removing four sets of human remains (UMFC21, UMFC25, and UMFC72) originally published as separate individuals. Upon further review of the collection, these remains were not those of distinct individuals but could be connected to other sets of remains listed elsewhere in the notice. Transfer of control of the human remains to the tribe listed below has been completed.

In the **Federal Register** (68 FR 50187–50189, August 20, 2003), paragraph four, is corrected by substituting the following:

In 1952, human remains (UMFC01) representing a minimum of two individuals were removed from the University of Montana campus, Missoula County, MT. The remains were excavated by Carling Malouf. One bone was stained with a red substance likely to be ocher, which is consistent with a prehistoric Native American secondary burial practice. No known individuals were identified. The seven associated funerary objects are 1 copper bell, 1 set of copper beads, 1 copper coil, 1 shell pendant fragment, 1 set of arrow points, 1 set of lithic flakes, and 1 lot of beads of various sizes. The presence of glass seed beads, of types commonly traded to local tribes in the mid-19th century, dates the burials to that period.

In the **Federal Register** (68 FR 50187–50189, August 20, 2003), paragraphs 10, 12, and 18 are deleted. These remains (UMFC21, UMFC25, and UMFC 72) are duplicative of the remains in paragraph four (UMFC01) as revised above, and remains published in a Notice of Inventory Completion in the **Federal Register** (75 FR 58430–58431, September 24, 2010), paragraphs six and seven.

In the **Federal Register** (68 FR 50187–50189, August 20, 2003), paragraph 11, sentence four, is corrected by substituting the following sentence:

The two associated funerary objects are one lot of animal teeth and one lot of small fossil shell beads, all covered with red ochre.

In the **Federal Register** (68 FR 50187–50189, August 20, 2003), paragraph 19 is corrected by substituting the following:

Prior to 1991, human remains (24MO1071) representing a minimum of one individual were removed from prehistoric archeological site 24MO1071 in Missoula County, MT. Metric analysis and geographic location indicated that the individual was probably Native American. No known individual was identified. The 17 associated funerary objects are 13 animal rib bones, 1 bird bone whistle, 1 chert flake, 1 chert tool, and 1 drill with a broken tip.

In the **Federal Register** (68 FR 50187–50189, August 20, 2003), paragraph 24 is corrected by substituting the following paragraph:

Determinations Made by The University of Montana

Officials of The University of Montana have determined that:

- Pursuant to 25 U.S.C. 3001(9–10), the human remains described above represent the physical remains of 17 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 194 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the human remains and the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana.

Additional Requestors and Disposition

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the associated funerary objects should contact Sally Thompson, University of Montana, Anthropological Curation Facility, Department of Anthropology, Missoula, MT 59812, telephone (406) 243–5525, before August 22, 2012. Repatriation of the associated funerary objects to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana, may proceed after that date if no additional claimants come forward.

The University of Montana is responsible for notifying the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana that this notice has been published.

Dated: June 28, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–17642 Filed 7–20–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–10699; 2200–3210–665]

Meeting of the Cold War Advisory Committee for the Cold War Theme Study

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the Cold War Advisory Committee for the Cold War Theme Study will conduct a teleconference meeting on August 3, 2012. Members of the public may attend the meeting in person in Washington, DC. During this teleconference, the Committee will make recommendations to the National Park Service (NPS) concerning the Cold War Theme Study.

DATES: The teleconference meeting will be held on August 3, 2012, from 2 p.m. to 3 p.m., Eastern Daylight Time, inclusive.

Location: The teleconference meeting will be conducted in Meeting Room 801 of the National Park Service, 1201 Eye Street NW., Washington, DC 20005, telephone 202–354–6906.

Agenda: The agenda for the meeting to be held on August 3, 2012 from 2 p.m. to 3 p.m. is as follows:

1. Discussion of the Cold War Theme Study
2. Discussion of the Cold War Bibliography
3. Discussion of potential sites to be nominated under the Cold War Theme Study

FOR FURTHER INFORMATION CONTACT: For information concerning the Cold War Advisory Committee for the Cold War Theme Study or to request to address the Committee, contact Dr. Alexandra M. Lord, Branch Chief, National Historic Landmarks Committee, National Park Service, 1201 I Street NW., 8th Floor, Washington, DC 20005, telephone 202–354–6906, email *alexandra_lord@nps.gov.*

SUPPLEMENTARY INFORMATION: Due to the limited scope of this meeting, the NPS has determined that a teleconference will be the most efficient way to convene the Committee members. The Committee meeting will be open to the public in the same way that other Committee meetings have been open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Opportunities for oral comment will be limited to no more than 3 minutes per speaker and no more than 15 minutes total. The Committee's Chairman will determine how time for oral comments will be allotted. Anyone may file a written statement with the Committee concerning matters to be discussed. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting in the 8th floor conference room at 1201 I Street NW., Washington, DC.

Dated: July 6, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2012–17806 Filed 7–20–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Glen Canyon Dam Adaptive Management Work Group (AMWG) makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam, consistent with the Grand Canyon Protection Act. The AMWG meets two to three times a year.

DATES: The meeting will be held on Wednesday, August 29, 2012, from 9:30 a.m. to approximately 5:30 p.m., and Thursday, August 30, 2012, from 8:00 a.m. to approximately 2 p.m.

ADDRESSES: The meeting will be held at the Radisson Woodlands Hotel Flagstaff, 1175 W. Route 66, Flagstaff, Arizona.

FOR FURTHER INFORMATION CONTACT: Glen Knowles, Bureau of Reclamation, telephone (801) 524–3781; facsimile (801) 524–3858; email at *gknowles@usbr.gov*.

SUPPLEMENTARY INFORMATION: The Glen Canyon Dam Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP includes a Federal advisory committee, the AMWG, a technical work group (TWG), a Grand Canyon Monitoring and Research Center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and recommendations to the AMWG.

Agenda: The primary purpose of the meeting will be for the AMWG to approve the Fiscal Year 2013–14 budget and hydrograph. They will also receive updates on the Long Term Experimental and Management Plan environmental impact statement, current basin hydrology and Glen Canyon Dam operational changes, and project updates from the Grand Canyon Monitoring and Research Center. The AMWG will address other administrative and resource issues pertaining to the AMP.

To view a copy of the agenda and documents related to the above meeting, please visit Reclamation's Web site at *http://www.usbr.gov/uc/rm/amp/amwg/mtgs/12aug29.html*. Time will be allowed at the meeting for any individual or organization wishing to make formal oral comments. To allow for full consideration of information by the AMWG members, written notice must be provided to Glen Knowles, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138; telephone 801–524–3781; facsimile 801–524–3858; email at *gknowles@usbr.gov* at least five (5) days prior to the meeting. Any written comments received will be provided to the AMWG members.

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 2, 2012.

Glen Knowles,

Chief, Adaptive Management Group, Environmental Resources Division, Upper Colorado Regional Office, Salt Lake City, Utah.

[FR Doc. 2012–17884 Filed 7–20–12; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–752]

Certain Gaming and Entertainment Consoles, Related Software, and Components Thereof; Notice of Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Remand of the Investigation to the Administrative Law Judge

AGENCY: U.S. International Trade Commission.

ACTION: Correction of notice.

SUMMARY: The Commission's notice published in the **Federal Register** on July 6, 2012 (77 FR 40082) contained an error that incorrectly identified ''337–TA–745'' as the investigation number for the Commission's determination to review a final initial determination finding a violation of section 337 and remand of the investigation to the administrative law judge. The correct investigation number is 337–TA–752.

By order of the Commission.

Issued: July 18, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–17887 Filed 7–20–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Development of a Series of Publications for the Evidence-Based Decision Making in Local Criminal Justice Systems Initiative

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC) Community Services Division is soliciting proposals from organizations, groups, or individuals to enter into a cooperative agreement with NIC for up to 18 months beginning in October 2012. Work under this cooperative agreement is part of a larger NIC initiative, Evidence-Based Decision Making (EBDM) in Local Criminal Justice Systems. Work under this cooperative agreement will align with the activities of other cooperative agreements providing services under Phase III of this initiative.

DATES: Applications must be received by 4:00 p.m. (EDT) on Friday, August 10, 2012.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this announcement can be downloaded from the NIC Web site at *www.nicic.gov/cooperativeagreements.*

All technical or programmatic questions concerning this announcement should be directed to Lori Eville, Correctional Program Specialist, National Institute of Corrections, at *leville@bop.gov.* In addition to direct reply, all questions and answers will be posted on the NIC Web site at *www.nicic.gov* for public review (the names of those submitting questions will not be posted). The Web site will be updated regularly and postings will remain on the Web site until the closing date of this cooperative agreement solicitation. Only questions received by 12:00 p.m. (EDT) on July 30, 2012 will be posted on the NIC Web site.

SUPPLEMENTARY INFORMATION:

Overview: The overall goal of the EBDM Initiative is to establish and test the links (information tools and protocols) between local criminal justice decisions and the application of human and organizational change principles (evidence-based practices) in achieving measurable reductions in pretrial misconduct and post-conviction risk of reoffending. The unique focus of the initiative is the review of locally developed criminal justice strategies that guide practice within existing sentencing statutes and rules. The initiative intends to (1) improve the quality of information that leads to making individual case decisions in local systems and (2) engage these systems as policymaking bodies to collectively improve the effectiveness and capacity of their decision making related to pretrial release/sentencing options. Local officials involved in the initiative include judges, prosecutors, public defenders, police, human service providers, county executives, and administrators of jail, probation, and pretrial services agencies.

Local criminal justice decisions are defined broadly to include dispositions regarding arrest, cite and release or to custody; pretrial release or detention and setting of bail and pretrial release conditions; pretrial diversion; charging and plea bargaining; sentencing of adjudicated offenders regarding use of community and custody options; and responses to violations of conditions of pretrial release and community sentences.

Background: In June 2008, the National Institute of Corrections (NIC) launched a multi-phased initiative and awarded a cooperative agreement to address evidence-based decision making in local criminal justice systems. The goal of Phase I of the initiative was to build a systemwide framework (from arrest through final disposition and discharge) that would result in more collaborative, evidence-based decision making and practices in local criminal justice systems. This effort was grounded in two decades of research on the factors that contribute to criminal reoffending and the methods a justice system can employ to interrupt the cycle of reoffense. Today, the initiative seeks to equip criminal justice policymakers in local communities with information, processes, and tools that will result in measurable reductions of pretrial misconduct and post-conviction reoffending.

The principle product of Phase I of this initiative was the Evidence-Based Decision Making Framework in Local Criminal Justice Systems. The Framework identifies the key structural elements of a system informed by evidence-based practice. It defines a vision of safer communities. It puts forward the belief that risk and harm reduction are fundamental goals of the justice system and that these can be achieved without sacrificing offender accountability or other important justice system outcomes.

The Framework both acknowledges the importance of the key premises and values underlying our criminal justice system and provides a set of principles to guide evidence-based decision making within that context; the principles themselves are evidence-based. The Framework also highlights the groundbreaking research that demonstrates pretrial misconduct and

offender recidivism can be reduced. The Framework identifies the key stakeholders who must be actively engaged in a collaborative partnership if an evidence-based system of justice is to be achieved. It outlines some of the most difficult challenges agencies face as they seek to implement such an approach deliberately and systematically in their local communities. A copy of the Evidence-Based Decision Making Framework document can be downloaded online at *http://nicic.gov/Library/024372.*

In August 2010, NIC launched Phase II (Planning and Engagement) of the Evidence-Based Decision Making in Local Criminal Justice Systems Initiative by selecting seven jurisdictions to serve as EBDM seed sites. Those sites are Mesa County, Colorado; Grant County, Indiana; Ramsey County, Minnesota; Yamhill County, Oregon; City of Charlottesville/County of Albemarle, Virginia; Eau Claire County, Wisconsin; Milwaukee County, Wisconsin.

The cooperative agreement awardees of Phase II provided extensive technical assistance to each of the seven seed sites for a period of 10 months. The overarching purpose of the technical assistance was to (1) Develop a shared philosophy and vision for the local criminal justice system; (2) Determine the capacity to collect and analyze data, including the quality of the data, to support ongoing analysis of the effectiveness of current and future policies, practices, and services designed to achieve specific risk and harm reduction outcomes; and (3) Change in knowledge, skills, and abilities regarding research-based risk reduction strategies.

Each site received technical assistance that was specific to the initiative and individualized to its system's needs. Monthly site visits from an assigned technical assistance site coordinator led the jurisdictions through the attainment of specific activities and goals. The Roadmap to Phase II outlines the major objectives that the technical assistance providers guided the seeds sites through. A copy of the roadmap is available online at *http://static.nicic.gov/Public/roadmap_phase_ii_final_2.docx.*

The technical assistance was intended to lead to the following outcomes: Build a genuine, collaborative policy team; Build individual agencies that are collaborative and in a state of readiness for change; Understand current practice within each agency/across the system; Understand and have the capacity to implement evidence-based practices; Establish performance measurements/outcomes/system scorecard; Develop a system logic model; Engage/gain support of the community; and Develop a strategic action plan.

All seven sites completed Phase II in October 2011. Each jurisdiction submitted an application for acceptance into Phase III of the initiative. Within their applications are a detailed strategic action plan and their system's logic model. The action plan and logic model are the foundation of implementation activities of the Phase III technical assistance.

Scope of Work: This award will result in a series of publications that will summarize and culminate the EBDM sites' criminal justice system work. This work will include, but is not limited to, the EBDM site work products from Phase II and their relevant experiences during all phases of this initiative. These publications will serve the broader criminal justice field that is increasingly seeking guidance and wants to learn from jurisdictions that have been successful with implementation of systemwide criminal justice change. The awardee will draw from various documents, tools, products, interviews, and assessments that have been drafted from work during previous awards and integrate them into the project deliverables of this cooperative agreement award. In addition, the awardee will make the revisions necessary to move the first document in the series, ''The Framework,'' from working draft to a final version.

Project Deliverables: (1) The awardee will complete final revisions to the working draft document ''A Framework for Evidence-Based Decision Making in Local Criminal Justice Systems.'' The final document must meet all requirements for publication and inclusion in the National Institute of Corrections Information Center Library. (2) The awardee will produce a series of seven bulletins focusing on each of the major criminal justice stakeholders, which will include judges, prosecutors, defenders, probation directors, pretrial directors, law enforcement, and victim services/advocates. The bulletins will highlight each stakeholder's perspective and its role within the policy team. They will highlight the major lessons learned from the Phase III sites as they worked toward systemwide criminal justice risk and harm reduction goals. The bulletins will also focus on the legal and policy barriers that the jurisdictions faced and the strategies they used while working toward the EBDM principles. The bulletins must meet all requirements for publication and inclusion in the National Institute of Corrections Information Center. (3) The awardee will produce a series of seven case studies highlighting the Phase II and Phase III completed work, products, and progress of the EBDM jurisdictions. The case studies will include site information from Phase II planning activities. Those products will include system maps, system score cards, logic models, and performance measures. The case studies will also focus on the jurisdictional differences discovered through this initiative that have relevance to the broader criminal justice field, such as changes in policy team membership, lack of stakeholder participation, implementation planning, and starting new programming such as pretrial and diversion.

Specific Requirements: Documents or other media that are produced under this award must follow these guidelines: Prior to the preparation of the final draft of any document or other media, the awardee must consult with NIC's writer/editor concerning the acceptable formats for manuscript submissions and the technical specifications for electronic media. The awardee must follow (1) the guidelines listed herein, as well as follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements,'' which can be found on our Web site at *www.nicic.gov/cooperativeagreements* and (2) NIC recommendations for producing media using plain language, which can be found at *www.nicic.gov/plainlanguage.*

All final documents and other media submitted under this project will be posted on the NIC Web site and must meet the federal government's requirement for accessibility (*e.g.,* 508 PDFs or HTML files). The awardee must provide descriptive text interpreting all graphics, photos, graphs, and/or multimedia that will be included with or distributed alongside the materials and must provide transcripts for all applicable audio/visual works.

Meetings: The cooperative agreement awardee will participate in an initial meeting with NIC staff for a project overview and preliminary planning meeting within 2 weeks of the award. The awardee will meet with NIC staff routinely to discuss the activities noted in the timeline during the course of the cooperative agreement. Meetings will be held no less than quarterly and may be conducted via webinar or in person as agreed upon by NIC and the awardee.

Application Requirements: Applications should be concisely written, typed, double-spaced, no more than 30 pages, and reference the project by the ''NIC Opportunity Number'' and Title in this announcement. The package must include: a cover letter that

identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.,* July 1 through June 30); a program narrative in response to the statement of work, and a budget narrative explaining projected costs. The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.gov/Downloads/General/certif-frm.pdf.*)

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov.* If submitted in hard copy, there needs to be an original and three copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

Authority: Public Law 93–415.

Funds Available: Up to $225,000 is available for this project, subject to available funding, but preference will be given to applicants who provide the most cost efficient solutions in accomplishing the scope of work. Determination will be made based on best value to the government, not necessarily the lowest bid. Funds may be used only for the activities that are directly related to the project.

This project will be a collaborative venture with the NIC Community Services Division.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual, or team with expertise in the described areas.

Required Expertise: Successful applicants must be able to demonstrate that they have the organizational capacity to produce the deliverables of this project. Appropriate expertise may include extensive experience in correctional and criminal justice policy and practice, and a strong background in criminal justice systemwide change with expertise in the implementation of evidence-based practices in pretrial release without an over reliance on financial release conditions.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows:

Program Narrative: (50%)

Are all of the project tasks adequately discussed? Is there a clear statement of how each task will be accomplished, including the staffing, resources, and strategies to be employed? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project?

Organizational Capabilities: (25%)

Do the skills, knowledge, and expertise of the applicant(s) and the proposed project staff demonstrate a high level of competency to complete the tasks? Does the applicant have the necessary experience and organizational capacity to complete the goals of the project?

Program Management/Administration (25%)

Does the applicant identify reasonable objectives, milestones, and measures to track progress? If there are consultants and/or partnerships proposed, is there a clear structure to ensure effective utilization and coordination? Is the proposed budget realistic, does it provide sufficient cost detail/narrative, and does it represent good value relative to the anticipated results?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, dial 1–866–705–5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site at *http://www.ccr.gov.* A CCR Handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 12CS15. This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.603.

Executive Order 12372: This program is subject to the provisions of Executive Order 12372. E.O. 12372 allows states the option of setting up a system for reviewing applications from within their states for assistance under certain federal programs. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC), a list of which is available at *http://www.whitehouse.gov/omb/grants/spoc.html.*

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2012–17811 Filed 7–20–12; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Dosage-Based Probation as an Effective Intervention

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC) Community Services Division is soliciting proposals from organizations, groups, or individuals to enter into a cooperative agreement with NIC for up to 16 months beginning in October 2012.

DATES: Application must be received by 4:00 p.m. (EDT) on Monday, August 6, 2012.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this announcement can be downloaded from the NIC Web site at *www.nicic.gov/cooperativeagreements.*

All technical or programmatic questions concerning this announcement should be directed to Lori Eville, Correctional Program Specialist, National Institute of Corrections, at *leville@bop.gov.* In addition to the direct reply, all questions and responses will be posted on NIC's Web site at *www.nicic.gov* for public review (the names of those submitting questions will not be posted). The Web site will be updated regularly and postings will remain on the Web site until the closing date of this cooperative agreement solicitation. Only questions received by 12:00 p.m. (EDT) on July 30, 2012 will be posted on the NIC Web site.

SUPPLEMENTARY INFORMATION:

Overview: The traditional approach of probation supervision in the United States focuses on offender accountability. Many jurisdictions deem probation ''successful'' by measuring the number of contacts they make with an offender, the conditions an offender completes, or the amount of time an offender serves on probation. As caseloads grow and criminal justice budgets continue to shrink, practitioners and legislators alike are looking for justice interventions that have better long-term outcomes. Only until recently has community corrections benefitted from specific research with identified methods of reducing offender recidivism. Research indicates that certain programs and intervention strategies, when applied under certain conditions, produce measureable reductions in recidivism. This same research suggests that few community supervision agencies are using these effective interventions and principles [see McGuire,(2002); Sherman *et al,* (1998), Aos (1998) on cost-benefit analysis and specific clinical trials (Henggeler *et al,* (1997); Meyers *et al,* (2002) on specific clinical trials)].

To bring the research to practice, NIC launched the Evidence-Based Policy and Practice Initiative, which incorporated many of these research findings. One result of the initiative was the ''box set,'' a collection of documents focusing on the implementation of evidence-based principles (EBP) in community corrections agencies. They are available on the NIC Web site at *http://nicic.gov/EBPBoxSet.*

NIC approaches risk and recidivism reduction with an integrated model that emphasizes the implementation of interventions based on proven principles associated with behavioral changes, the development of understanding and commitment to risk reduction within correctional organizations, and collaboration with other justice agencies and service providers to enhance delivery. The integrated approach for reducing offender risks has guiding principles and roles for courts, prosecutors and defense attorneys, pretrial services, and treatment providers as well as corrections. The box set provides an overview and outlines the roles of stakeholders in reducing offender risk.

Research supports several principles of effective offender interventions. NIC highlights eight of these principles in its publication ''Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Interventions'' *http://static.nicic.gov/Library/019342.pdf.* These working principles are listed below in developmental sequence: (1) Assess Actuarial Risk/Needs—Assessing offenders' risk and needs (focusing on dynamic and static risk factors and criminogenic needs) at the individual and aggregate levels is essential for implementing the principles of best practice. (2) Enhance Intrinsic Motivation—Research strongly suggests that ''motivational interviewing'' techniques, rather than persuasion tactics, effectively enhance motivation for initiating and maintaining behavior changes. (3) Target Interventions: a. Risk Principle—Prioritize supervision and treatment resources for higher risk offenders. b. Need Principle—Target interventions to criminogenic needs. c. Responsivity Principle—Be responsive to temperament, learning style, motivation, gender, and culture when assigning to programs. d. Dosage—Structure 40% to 70% of high-risk offenders' time for 3 to 9 months. e. Treatment Principle—Integrate treatment into full sentence/sanctions requirements. (4) Skill Train with Directed Practice—Provide evidence-based programming that emphasizes cognitive-behavior strategies and is delivered by well-trained staff. (5) Increase Positive Reinforcement—Apply four positive reinforcements for every one negative reinforcement for optimal behavior change results. (6) Engage Ongoing Support in Natural Communities—Realign and actively engage pro-social support for offenders in their communities for positive reinforcement of desired new behaviors. (7) Measure Relevant Processes/Practices—An accurate and detailed documentation of case information and staff performance, along with a formal and valid mechanism for measuring outcomes, is the foundation of evidence-based practice. (8) Provide Measurement Feedback—Providing feedback builds accountability and maintains integrity, ultimately improving outcomes.

Scope of Work: The intent of this solicitation is to expand on the foundation of work that NIC has led on offender risk reduction. ''Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Interventions'' outlines a framework of strategies that, when jurisdictions implement them correctly, lead to reductions in offender risk. It further suggests that these principles are in developmental order, do not operate in a vacuum, and are highly interdependent. This project will focus on the development of the third principle, Target Interventions: Dosage. It will also call for the integration of dosage into the other more established principles of risk, need, and responsivity. Dosage-based probation must be guided by the actuarial risk of the offender. After determining the offender's risk, it is then necessary to assess and target the individual criminogenic needs of the offender so that treatment, interventions, and conditions will match to the offender's identified needs. The intensity, duration, and frequency of treatment, interventions, conditions, and/or dosage should match the level of offender risk and be reassessed routinely to determine their effectiveness.

Project Deliverables: (1) The awardee will develop a monograph that will review all of the current research and publications on the use of a dosage-based probation approach and its effectiveness as an intervention within a criminal justice system. The monograph must meet all requirements for publication and inclusion in the National Institution of Corrections Information Center. (2) The awardee will develop a comprehensive strategic plan outlining the activities, processes, and objectives that an agency or jurisdiction should complete at (a) The individual case level, (b) the agency level, and (c) the system level to implement dosage-based probation as a risk reduction intervention. (3) The awardee will produce and submit a protocol for selecting jurisdictions that are best positioned to implement the dosage-based probation intervention strategic plan. (4) Participate in all planning and progress meetings during the life of the project. (5) Submit a final report reviewing the project's activities and accomplishments.

Specific Requirements: Documents or other media that are produced under this award must follow these guidelines: Prior to the preparation of the final draft of any document or other media, the awardee must consult with NIC's writer/editor concerning the acceptable formats for manuscript submissions and the technical specifications for electronic media. The awardee must follow the guidelines listed herein, as well as follow (1) the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements,'' which can be found on our Web site at *www.nicic.gov/cooperativeagreements* and (2) NIC recommendations for producing media using plain language, which can be found at *www.nicic.gov/plainlanguage.* All final documents and other media submitted under this project will be posted on the NIC Web site and must meet the federal government's

requirement for accessibility (e.g., 508 PDFs or HTML files). The awardee must provide descriptive text interpreting all graphics, photos, graphs, and/or multimedia that will be included with or distributed alongside the materials and must provide transcripts for all applicable audio/visual works.

Meetings: The cooperative agreement awardee will participate in an initial meeting with NIC staff for a project overview and preliminary planning within two weeks of the award. The awardee will meet with NIC staff routinely to discuss the activities noted in the timeline during the course of the cooperative agreement. Meetings will be held no less than quarterly and may be conducted via webinar or in person as agreed upon by NIC and the awardee.

Application Requirements: Applications should be concisely written, typed double-spaced and reference the project by the ''NIC Opportunity Number'' and Title in this announcement. The package must include: A cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); a program narrative in response to the statement of work and a budget narrative explaining projected costs. The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.gov/Downloads/General/certif-frm.pdf*).

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov.* If submitted in hard copy, there needs to be an original and three copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

Authority: Pub. L. 93–415.

Funds Available: Up to $100,000 is available for this project, subject to available funding, but preference will be given to applicants who provide the most cost efficient solutions in accomplishing the scope of work. Determination will be made based on best value to the government, not necessarily the lowest bid. Funds may be used only for the activities that relate directly to the project.

This project will be a collaborative venture with the NIC Community Services Division.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual, or team with expertise in the described areas.

Required Expertise: Successful applicants must be able to demonstrate that they have the organizational capacity to produce the deliverables of this project, including extensive experience in correctional and criminal justice policy and practice, and a strong background in offender risk reduction principles.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows:

Program Narrative: (50%)

Are all of the five project tasks adequately discussed, and is there a clear statement of how each will be accomplished, including the staffing, resources, and strategies to be employed? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project?

Organizational Capabilities: (25%)

Do the skills, knowledge, and expertise of the applicant(s) and the proposed project staff demonstrate a high level of competency to complete the tasks? Does the applicant have the necessary experience and organizational capacity to meet the goals of the project?

Program Management/Administration: (25%)

Does the applicant identify reasonable objectives, milestones, and measures to track progress? If there are consultants and/or partnerships proposed, is there a clear structure to ensure effective use and coordination? Is the proposed budget realistic, does it provide sufficient cost detail/narrative, and does it represent good value relative to the anticipated results?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CRR can be done online at the CCR Web site: *http://www.ccr.gov.* A CCR Handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 12CS09. This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.603.

Executive Order 12372: This program is subject to the provisions of Executive Order 12372.

E.O. 12372 allows states the option of setting up a system for reviewing applications from within their states for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which can be found at *http://www.whitehouse.gov/omb/grants_spoc.*

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2012–17818 Filed 7–20–12; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,222]

Corob North America, a Subsidiary of CPS Color Equipment, Inc., Including On-Site Leased Workes From Pionear and Integra Staffing, Concord, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 27, 2012, applicable to workers of CPS Color Equipment, Inc., formerly known as Corob North America, including on-site leased workers from Pionear and Integra Staffing, Concord, North Carolina. The Department's notice of determination was published in the **Federal Register** on February 8, 2012 (Vol. 77, No. 26 FR 6590).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of tint dispensing machines.

New information shows that some workers separated from employment at Corob North America had their wages reported through a separate unemployment insurance (UI) tax account under the name CPS Color Equipment, Inc.

The amended notice applicable to TA–W–81,222 is hereby issued as follows:

All workers of Corob North America, a subsidiary of CPS Color Equipment, Inc., including on-site leased workers from Pionear and Integra Staffing, Concord, North Carolina who became totally or partially separated from employment on or after February 13, 2010, through January 27, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 10th day of July 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–17840 Filed 7–20–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *July 2, 2012 through July 6, 2012.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the

affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,611	Hickory Springs Manufacturing Company	New Albany, MS	May 11, 2011.
81,657	Triangle Suspension Systems, Inc., The Marmon Group	Dubois, PA	May 18, 2011.
81,658	ATI—Albany Operations, Allegheny Technologies, Kelly Services, LBCC, CADD Connections, etc.	Albany, OR	May 25, 2011.
81,690	J.M.D. Fashion, Inc	New York, NY	May 28, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,531	Commemorative Brands, Inc., CBI Rings Division and Mfg. Department, American Achievement Corporation.	Austin, TX	April 23, 2011.
81,594	Catalina Marketing Corporation, Operations Division, Staffing Resources Group (SRG).	St. Petersburg, FL	May 8, 2011.
81,656	Phillips Food, Inc., Allines Staffing and 1st Team Staffing	Baltimore, MD	May 23, 2011.
81,667	Health Net, Inc., Membership Accounting Department, Kelly Services.	Woodland Hills, CA	May 30, 2011.
81,667A	Health Net, Inc., Membership Accounting Department, Kelly Services.	Rancho Cordova, CA	May 30, 2011.
81,667B	Health Net, Inc., Information Technology Group	Rancho Cordova, CA	May 30, 2011.
81,667C	Health Net, Inc., Corporate Tax Department	Woodland Hills, CA	May 30, 2011.
81,694	WellPoint, Inc., Empire Blue Cross Division, Kelly Services and Aerotek.	Albany, NY	June 5, 2011.
81,695	WellPoint, Inc., Empire Blue Cross and Blue Shield Division, Kelly Services and Aerotek.	Middletown, NY	June 5, 2011.
81,709	Ultralife Corporation, Battery and Energe Products Group, Adecco Employment Services.	Newark, NY	June 12, 2011.
81,719	Crawford and Company, ICT–Infrastructure, Database Administration, Remote Workers Lake Zurich, IL.	Atlanta, GA	June 4, 2011.
81,738	Materials CTI, LLC, Formerly Crystal Technology, EPCOS CTI, EPCOS, Richmar Associates.	Palo Alto, CA	June 20, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,655	Fortis Plastics, Plastics Acquisitions, Shelley Investments, d/b/a Salem Business Center.	Carlyle, IL	May 23, 2011.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,545	Alexandria Extrusion Company, Manpower Inc., Pro Staff, The Work Connection and Doherty Staffing Solution.	Alexandria, MN	May 19, 2010.
81,545A	Alexandria Extrusion Company, Aerotek Commercial Staffing	Carrollton, TX	May 19, 2010.
81,559	Unilin NC, LLC, Mohawk Industries, Inc	Dallas, TX	December 7, 2010.

TA–W No.	Subject firm	Location	Impact date
81,589	Hydro Aluminum North America, Inc., Kalamazoo Division, Employment Group, Aerotek and Manpower.	Kalamazoo, MI	May 19, 2010.
81,624	Southeastern Aluminum Products, Inc, Express Employment Professionals, Employment Plus, Driving Ambition, etc.	Jacksonville, FL	May 19, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,683	Husqvarna Consumer Outdoor Products N.A., Inc., Remedy Staffing, Kelly Services, Staffmark, Abacus.	Orangeburg, SC.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,499	Verizon Wireless	Houston, TX.	
81,499A	Verizon Wireless	Bellevue, WA.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
81,602	Chartis Global Services, Inc., Chartis, Regional Processing Organization, Regional Service Center.	Dallas, TX.	
81,715	RG Steel Sparrows Point LLC, RG Steel LLC, Echelon Service, Sun Associated Industries, etc.	Sparrows Point, MD.	

I hereby certify that the aforementioned determinations were issued during the period of *July 2, 2012 through July 6, 2012.* These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: July 11, 2012.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2012–17839 Filed 7–20–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 2, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 2, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of

Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of July 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[18 TAA petitions instituted between 7/2/12 and 7/6/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81766	Sensata Technologies, Inc. Power Controls Business (Company).	Cambridge, MD	07/02/12	06/29/12
81767	Cognizant Technology Solutions US Corporation (State/One-Stop).	Beaverton, OR	07/02/12	06/29/12
81768	AMG Resources Corporation (State/One-Stop)	Baltimore, MD	07/02/12	07/02/12
81769	Federal-Mogul Corporation (Company)	Winchester, VA	07/02/12	06/29/12
81770	Hartford Financial Services Group, Inc. (Company)	Southington, CT	07/02/12	06/29/12
81771	Ross Sand Casting #3 (Union)	Winchester, IN	07/03/12	07/03/12
81772	WellPoint, Inc. (2 Locations—IN and CA) (Company)	Newbury Park, CA	07/03/12	07/02/12
81773	IdaTech, LLC (State/One-Stop)	Bend, OR	07/03/12	07/02/12
81774	Ecolab (State/One-Stop)	St. Paul, MN	07/05/12	07/03/12
81775	Vertis Communications, Inc. (State/One-Stop)	Portland, OR	07/05/12	06/18/12
81776	HCL America, Inc. (State/One-Stop)	Webster, NY	07/05/12	07/03/12
81777	American Greetings Corporation (Workers)	Brooklyn, OH	07/05/12	07/05/12
81778	Continental Automotive Systems (State/One-Stop)	Huntsville, AL	07/06/12	07/03/12
81779	Contech Castings, LLC (Company)	Clarksville, TN	07/06/12	07/05/12
81780	American Express, Global Prepaid Servicing, Customer Serv. Term. on 08/12/12 (Workers).	Salt Lake City, UT	07/06/12	07/05/12
81781	Technicolor (Company)	Indianapolis, IN	07/06/12	07/03/12
81782	UPS (United Parcel Service) (Workers)	Carrollton, TX	07/06/12	07/05/12
81783	Pricewaterhouse Coopers LLP (Workers)	Tampa, FL	07/06/12	07/03/12

[FR Doc. 2012–17841 Filed 7–20–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Provider Enrollment Form (OWCP–1168). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 21, 2012.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–2447, email *ferguson.yoon@dol.gov*. Please use only one method of transmission for comments (mail, fax, or email).

SUPPLEMENTARY INFORMATION

I. Background: The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.,* the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.,* and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.* These statutes require OWCP to pay for appropriate medical and vocational rehabilitation services provided to beneficiaries. In order for OWCP's bill processing contractor to reimburse providers for approved services, providers must enroll with one or more of the OWCP programs that administer the statutes by submitting certain profile information, including identifying information, tax I.D. information, and whether they possess specialty or sub-specialty training. Form OWCP–1168 is used to obtain this information from each provider. This information collection is currently approved for use through November 30, 2012.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks the approval of the extension of this currently approved information collection in order to carry out a wide range of automated bill edits, such as the identification of duplicate billings, the application of pertinent fee schedules, utilization review, and fraud and abuse detection. The profile information is also used to furnish detailed reports to providers on the status of previously submitted bills.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Provider Enrollment Form.

OMB Number: 1240–0021.

Agency Number: OWCP–1168.

Affected Public: Businesses or other for-profit.

Total Respondents: 53,934.

Total Responses: 53,934.

Time per Response: 8 minutes.

Frequency: On occasion.

Estimated Total Burden Hours: 7,174.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $25,888.

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

Dated: July 17, 2012.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2012–17842 Filed 7–20–12; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL LABOR RELATIONS BOARD

Further Amendment to Memorandum Describing Authority and Assigned Responsibilities of the General Counsel

AGENCY: National Labor Relations Board.

ACTION: Amendment of delegation of administrative authority to General Counsel under section 3(d) of National Labor Relations Act.

SUMMARY: The National Labor Relations Board is amending the memorandum describing the authority and assigned responsibilities of the General Counsel of the National Labor Relations Board with respect to administrative functions. The revisions are being adopted in order to establish an Office of the Chief Financial Officer and to reestablish lines of authority within the administrative structure of the Agency.

DATES: *Effective Date:* July 23, 2012.

ADDRESSES: National Labor Relations Board, 1099 14th Street NW., Room 11600, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Washington, DC 20570. Telephone: (202) 273–1067 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 3(a) of the Administrative Procedure Act (Pub. L. 404, 79th Cong., 2d Sess.), the National Labor Relations Board hereby separately states and currently publishes in the **Federal Register** the following further amendment to Board memorandum describing the authority and assigned responsibilities of the General Counsel of the National Labor Relations Board.

The Board memorandum describing the authority and assigned responsibilities of the General Counsel of the National Labor Relations Board effective April 1, 1955, as amended September 8, 1958 (effective August 25, 1958), August 12, 1959 (effective August 3, 1959), April 28, 1961 (effective May 15, 1961), and October 4, 2002 (effective October 1, 2002) (appearing at 20 FR 2175, 23 FR 6966, 24 FR 6666, 26 FR 3911 and 67 FR 62992, respectively), is hereby further amended as follows:

1. Strike the text of paragraph 6 of section VII of the amendment dated October 4, 2002 (effective October 1, 2002), and substitute the following:

6. The Agency shall appoint a Chief Financial Officer (''CFO''), who will jointly report to the General Counsel and the Chairman of the Board. The Budget, Finance and Acquisitions Management Branches shall be realigned under the authority of the CFO, and placed with the Office of the Chief Information Officer, Office of the Inspector General, Office of Equal Employment Opportunity and Office of Employee Development outside the Division of Administration.

2. Add the following paragraph 7 to the text of section VII of the amendment dated October 4, 2002 (effective October 1, 2002):

7. The Chairman of the Board shall have full and final authority over the selection, retention, transfer, promotion, demotion, discipline, discharge and evaluation of those persons holding Senior Executive Service positions in the Division of Administration, the senior management officials in the Office of Equal Employment Opportunity and the Office of Employee Development, the Chief Information Officer and the Chief Financial Officer.

Authority: Sections 3, 4, 6, and 10 of the National Labor Relations Act, 29 USC Sec. 3, 4, 6, and 10.

Dated: Washington, DC, July 17, 2012.

By direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. 2012–17804 Filed 7–20–12; 8:45 am]

BILLING CODE 7545–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program: Medically Underserved Areas for 2013

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of Medically Underserved Areas for 2013.

SUMMARY: The U.S. Office of Personnel Management (OPM) has completed its annual determination of the States that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 2013. This is necessary to comply with a provision of the FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Accordingly, for calendar year 2013, the following 14 states are considered as Medically Underserved Areas under the FEHB Program: Alabama, Arizona, Idaho, Illinois, Louisiana, Mississippi, Missouri, Montana, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, and Wyoming. Alaska and Kentucky were designated as a Medically Underserved Area in 2012, but will not be so designated for 2013. South Carolina is being added as a Medically Underserved Area for the 2013 calendar year

DATES: Effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Lynelle T. Frye, 202–606–0004.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) requires special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. This section of the law requires that a State be designated as a Medically Underserved Area if 25 percent or more of the population lives in an area designated by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area. Such States are designated as Medically Underserved Areas for purposes of the

FEHB Program, and the law requires non-HMO FEHB plans to reimburse beneficiaries, subject to their contract terms, for covered services obtained from any licensed provider in these States.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the States that qualify as Medically Underserved Areas for the next calendar year by comparing the latest HHS State-by-State population counts on primary medical care manpower shortage areas with U.S. Census figures on State resident populations.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2012–17753 Filed 7–20–12; 8:45 am]

BILLING CODE 6325–63–P

POSTAL SERVICE

Board of Governors Sunshine Act Meeting

DATES AND TIMES: Wednesday, August 8, 2012, at 10:00 a.m.; Thursday, August 9, at 8:30 a.m. and 10:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW., in the Benjamin Franklin Room.

STATUS: Wednesday, August 8, at 10:00 a.m.—Closed; Thursday, August 9, at 8:30 a.m.—Open; and at 10:30 a.m.—Closed

Matters To Be Considered

Wednesday, August 8, at 10:00 a.m. (Closed)

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Thursday, August 9, at 8:30 a.m. (Open)

1. Approval of Minutes of Previous Meetings.
2. Remarks of the Chairman of the Board.
3. Remarks of the Postmaster General and CEO.
4. Committee Reports.
5. Quarterly Report on Financial Performance.
6. Quarterly Report on Service Performance.
7. Tentative Agenda for the September 13, 2012, meeting in Washington, DC

Thursday, August 9, at 10:30 a.m. (Closed—if needed)

1. Continuation of Thursday's closed session agenda.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2012–18065 Filed 7–19–12; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67449; File No. SR–FINRA–2012–035]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

July 17, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2012, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend to July 17, 2013 the implementation of FINRA Rule 4240. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps that are security-based swaps.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,[4] which implements an interim pilot program (the ''Interim Pilot Program'') with respect to margin requirements for certain transactions in credit default swaps (''CDS'').[5] On March 7, 2012, the SEC approved extending the implementation of Rule 4240 to July 17, 2012.[6]

As explained in the Approval Order, FINRA Rule 4240, coterminous with certain Commission actions, was intended to address concerns arising from systemic risk posed by CDS, including, among other things, risks to the financial system arising from the lack of a central clearing counterparty to clear and settle CDS.[7] On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''),[8] Title VII of which established a comprehensive new regulatory framework for swaps and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change; File No. SR–FINRA–2009–012) (''Approval Order'').

[5] In March 2012, the SEC approved amendments to FINRA Rule 4240 that, among other things, limit at this time the rule's application to credit default swaps that are security-based swaps. *See* Exchange Act Release No. 66527 (March 7, 2012), 77 FR 14850 (March 13, 2012) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change; File No. SR–FINRA–2012–015).

[6] *See* Exchange Act Release No. 66528 (March 7, 2012), 77 FR 14848 (March 13, 2012) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change; File No. SR–FINRA–2012–014).

[7] *See* 74 FR at 25588–89.

[8] Public Law 111–203, 124 Stat. 1376 (2010).

security-based swaps,[9] including certain CDS. The new legislation was intended, among other things, to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

Pursuant to Title VII of the Dodd-Frank Act, the CFTC and the Commission are engaged in ongoing rulemaking with respect to swaps and security-based swaps.[10] FINRA believes it is appropriate to extend the Interim Pilot Program for a limited period, to July 17, 2013, in light of the continuing development of the CDS business within the framework of the Dodd-Frank Act and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of that legislation.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately. The proposed rule change will expire on July 17, 2013.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

FINRA has requested that the Commission waive the five-day pre-filing notice requirement specified in Rule 19b–4(f)(6)(iii) under the Act.[14] FINRA proposes to make the proposed rule change operative on July 17, 2012.

FINRA has requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing. The Commission hereby grants FINRA's request and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] This will allow the Interim Pilot Program to continue without interruption and extend the benefits of a pilot program that the Commission approved and previously extended. For these reasons, the Commission designates the proposed rule change as operative on July 17, 2012.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–035. 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

[9] The terms ''swap'' and ''security-based swap'' are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commodity Futures Trading Commission (''CFTC'') and the Commission jointly have approved rules to further define these terms. *See* SEC File No. S7–16–11 (Joint Final Rule; Interpretations: Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement;'' Mixed Swaps; Security-Based Swap Agreement Recordkeeping), available at: *http://www.sec.gov/news/press/2012/s71611-draft.pdf. See also* Exchange Act Release No. 66868 (April 27, 2012), 77 FR 30596 (May 23, 2012) (Joint Final Rule; Joint Interim Final Rule; Interpretations: Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant'').

[10] *See, e.g., supra* note 9 and Exchange Act Release No. 67177 (June 11, 2012), 77 FR 35625 (June 14, 2012) (Statement of General Policy on the Sequencing of the Compliance Dates for Final Rules Applicable to Security-Based Swap).

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii). Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five-day pre-filing period in this case.

[15] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–035 and should be submitted on or before August 13, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–17803 Filed 7–20–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; In the Matter of Alliance Bancshares California, City Loan, Inc., Clear Choice Financial, Inc., CRC Crystal Research Corp., Cygne Designs, Inc., and Davi Skin, Inc.

July 19, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alliance Bancshares California because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of City Loan, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clear Choice Financial, Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CRC Crystal Research Corp. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cygne Designs, Inc. because it has not filed any periodic reports since the period ended October 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Davi Skin, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 19, 2012, through 11:59 p.m. EDT on August 1, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–17966 Filed 7–19–12; 11:15 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13107 and #13108]

Florida Disaster Number FL–00072

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of FLORIDA (FEMA–4068–DR), dated 07/09/2012.

Incident: Tropical Storm Debby.

Incident Period: 06/23/2012 and continuing.

Effective Date: 07/12/2012.

Physical Loan Application Deadline Date: 09/07/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 04/09/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Florida, dated 07/09/2012, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Collier, Lee, Levy Madison, Putnam, Santa Rosa, Taylor, Bradford, Duval.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2012–17807 Filed 7–20–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13103 and #13104]

Florida Disaster Number FL–00071

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–4068–DR), dated 07/03/2012.

Incident: Tropical Storm Debby.

Incident Period: 06/23/2012 and continuing.

Effective Date: 07/12/2012.

Physical Loan Application Deadline Date: 09/04/2012.

EIDL Loan Application Deadline Date: 04/03/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Florida, dated 07/03/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Hillsborough, Taylor, Manatee.

Contiguous Counties: (Economic Injury Loans Only): Florida: Dixie, Sarasota.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2012–17808 Filed 7–20–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 7959]

Designation of the Center for Innovation and Technology Cooperation (CITC), Pentane Chemistry Industries (PCI), and Hossein Tanideh Pursuant to Executive Order 13382

AGENCY: Department of State.

ACTION: Designation of the Center for Innovation and Technology Cooperation (CITC), Pentane Chemistry Industries (PCI), and Hossein Tanideh Pursuant to E.O. 13382.

SUMMARY: Pursuant to the authority in section 1(ii) of Executive Order 13382, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,'' the State Department, in consultation with the Secretary of the Treasury and the Attorney General, has determined that the Center for Innovation and Technology Cooperation (CITC), Pentane Chemistry Industries (PCI), and Hossein Tanideh, have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items, by any person or foreign country of proliferation concern.

DATES: The designation by the Acting Under Secretary of State for Arms Control and International Security of the entity identified in this notice pursuant to Executive Order 13382 is effective on July 12, 2012.

FOR FURTHER INFORMATION CONTACT: Director, Office of Counterproliferation Initiatives, Bureau of International Security and Nonproliferation, Department of State, Washington, DC 20520, tel.: 202–647–5193.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 30, 2005. In the Order the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

Information on the additional designee is as follows:

Center for Innovation and Technology Cooperation, A.K.A. CITC, A.K.A. Technology Cooperation Office, A.K.A. TCO, A.K.A. Office of Scientific and Technical Cooperation, F.K.A. Presidency Office of Scientific and Industrial Studies (POSIS), F.K.A. Office of Scientific and Industrial Studies (OSIS). Location: Tehran, Iran.

Pentane Chemistry Industries, A.K.A. PCI, A.K.A. Pentane Chemistry Industries Company. Location: 5th Floor, No. 192, Darya and Paknejad Blv. Cross Section, Shahrak Gharb, Tehran, Iran.

Hossein Tanideh, D.O.B. 9 June 1964, passport number H13781445; expiration: 9 June 2013.

Dated: July 9, 2012.

Rose Gottemoeller,

Acting Under Secretary for Arms Control and International Security, Department of State.

[FR Doc. 2012–17911 Filed 7–20–12; 8:45 am]

BILLING CODE 4710–27–P

TRADE REPRESENTATIVE

Request for Comments on Negotiating Objectives With Respect to Canada's Participation in the Proposed Trans-Pacific Partnership Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments on negotiating objectives with respect to Canada's participation in the ongoing negotiations of a Trans-Pacific Partnership (TPP) trade agreement, and notice of public hearing.

SUMMARY: The United States intends to commence negotiations with Canada as part of the ongoing negotiations of a TPP trade agreement. Including Canada in the TPP negotiations furthers the objective of achieving a high-standard, broad-based Asia-Pacific regional agreement. The Office of the United States Trade Representative (USTR) is seeking public comments on all elements related to Canada's participation in the TPP negotiations in order to develop U.S. negotiating positions.

DATES: Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as their testimony, by September 4, 2012. The hearing will be held in Washington, DC, on September 24, 2012. Written comments are due by noon,

ADDRESSES: *Submissions via on-line: www.regulations.gov.* For alternatives to on-line submissions, please contact Donald W. Eiss at (202) 395–3475.

FOR FURTHER INFORMATION CONTACT: For questions concerning requirements for written comments, please contact Donald W. Eiss at (202) 395–3475. All other questions regarding this notice should be directed to Mary T. Smith, Director for Canada, at (202) 395–3412.

SUPPLEMENTARY INFORMATION:

1. Background

On November 14, 2011, Canadian Prime Minister Stephen Harper stated

Canada's intention to begin consultations with the TPP countries regarding Canada's participation in the negotiations. On December 7, 2011, USTR published a notice in the **Federal Register** (76 FR 76480), seeking public comments on Canada's possible participation in the TPP negotiations.

On July 10, 2012, following consultations with relevant Congressional committees and after having reached consensus on Canada's participation with the other TPP negotiating partners (Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore and Vietnam), the U.S. Trade Representative informed Congress that the President intends to commence negotiations with Canada in the context of the ongoing negotiations of the TPP. The objective of this negotiation is to achieve a high-standard, 21st century agreement with a membership and coverage that provides economically significant market access opportunities for America's workers, manufacturers, service suppliers, farmers, ranchers, and small businesses. The addition of Canada to the group of TPP negotiating partners will contribute meaningfully to the achievement of these goals.

In addition, under the Trade Act of 1974, as amended (19 U.S.C. 2151, 2153), in the case of an agreement such as the proposed TPP trade agreement, the President must (i) afford interested persons an opportunity to present their views regarding any matter relevant to the proposed agreement, (ii) designate an agency or inter-agency committee to hold a public hearing regarding the proposed agreement, and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effects on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports pursuant to the proposed agreement.

USTR intends to hold a public hearing on matters related to Canada's participation in the TPP negotiations on September 24, 2012. In addition, USTR has requested the ITC to provide advice to USTR on the probable economic effects of including Canada in a TPP agreement.

2. Public Comments

To assist USTR as it develops its negotiating objectives for the agreement, the Chair of the Trade Policy Staff Committee (TPSC) invites interested persons to submit written comments and/or oral testimony at a public hearing on matters relevant to Canada's participation in the TPP negotiations. Members of the public who submitted comments in response to the earlier request (76 FR 76480) need not make an additional submission unless the comments are different.

Comments and testimony may address the reduction or elimination of tariffs or non-tariff barriers on any articles provided for in the Harmonized Tariff Schedule of the United States (HTSUS) that are products of Canada, any concession that should be sought by the United States, or any other matter relevant to the inclusion of Canada in the proposed TPP agreement. The TPSC Chair invites comments on all of these matters and, in particular, seeks comments addressed to:

(a) General and product-specific negotiating objectives for Canada in the context of this proposed regional agreement.

(b) Economic costs and benefits to U.S. producers and consumers of removal of tariffs and removal or reduction in non-tariff barriers on articles traded with Canada.

(c) Treatment of specific goods (described by HTSUS numbers) under the proposed regional agreement, including comments on—

(1) Product-specific import or export interests or barriers,

(2) Experience with particular measures that should be addressed in the negotiations, and

(3) Approach to tariff negotiations, including recommended staging and ways to address export priorities and import sensitivities related to Canada in the context of this regional agreement.

(d) Adequacy of existing customs measures to ensure that qualifying imported goods from TPP countries, including Canada, receive preferential treatment, and appropriate rules of origin for goods entering the United States under the proposed regional agreement.

(e) Existing sanitary and phytosanitary measures and technical barriers to trade imposed by Canada that should be addressed in the negotiations.

(f) Existing barriers to trade in services between the United States and Canada that should be addressed in the negotiations.

(g) Relevant electronic commerce issues that should be addressed in the negotiations.

(h) Relevant trade-related intellectual property rights issues that should be addressed in the negotiations.

(i) Relevant investment issues that should be addressed in the negotiations.

(j) Relevant competition-related matters that should be addressed in the negotiations.

(k) Relevant government procurement issues that should be addressed in the negotiations.

(l) Relevant environmental issues that should be addressed in the negotiations.

(m) Relevant labor issues that should be addressed in the negotiations.

In addition to the matters described above, USTR is addressing new and emerging issues in this proposed regional agreement. Specifically, USTR is considering new approaches designed to promote innovation and competitiveness, encourage new technologies and emerging economic sectors, increase the participation of small- and medium-sized businesses in trade, and support the development of efficient production and supply chains that include U.S. firms in order to encourage firms to invest and produce in the United States. The TPSC Chair invites comments regarding how Canada's participation in the negotiations might affect these new approaches. The TPSC Chair also invites comments on the impact of Canada's participation in the negotiations on other trade-related priorities in this regional agreement, including environmental protection and conservation, transparency, workers rights and protections, development, and other issues.

USTR has already provided notice and requested comments on the scope for an environmental review of the proposed TPP trade agreement (see 75 FR 14470, March 25, 2010). As described above, the present notice invites comments on, among other topics, environmental issues to be addressed in the TPP negotiations to take into account Canada's participation in the negotiation. Further comments are also invited on the environmental review, including possible changes in the scope or other issues that should be addressed in the review. At a later date, USTR, through the TPSC, will publish notice of reviews regarding the impact of the proposed agreement on U.S. employment and labor markets. These reviews will take into account Canada's participation in the negotiations.

A hearing will be held on September 24, 2012, in Rooms 1, and 2, 1724 F Street NW., Washington, DC. Persons wishing to testify at the hearing must provide written notification of their intention by September 24, 2012. The notification should include: (1) The name, address, and telephone number of the person presenting the testimony; and (2) a short (one or two paragraph) summary of the presentation, including the subject matter and, as applicable, the products(s) (with HTSUS numbers), service sector(s), or other subjects (such

as investment, intellectual property and/or government procurement) to be discussed. A copy of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC. Persons with mobility impairments who will need special assistance in gaining access to the hearing should contact the TPSC Executive Secretary.

Interested persons, including persons who participate in the hearing, may submit written comments by no later than noon, September 4, 2012.

Public Comment: Requirements for Submissions

Persons submitting written comments must do so in English and must identify (on the first page of the submission) ''Participation of Canada in the Trans-Pacific Partnership Trade Negotiations.'' Persons may submit public comments electronically to *www.regulations.gov* docket number USTR–2012–0015. In order to be assured of consideration, comments should be submitted by noon, September 4, 2012.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site. Comments should be submitted under the following docket: USTR–2012–0015. To find the docket, enter the docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notices'' under ''Document Type'' on the search-results page, and click on the link entitled ''Comment Now.'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the web site by clicking on the ''Help'' tab.)

The *http://www.regulations.gov* Web site provides the option of providing comments using the ''Type Comments'' field, or by attaching a document using the ''Upload File(s)'' field. USTR prefers submissions to be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field. USTR also prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comments'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P.'' The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the character ''P,'' followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

USTR strongly urges submitters to file comments through *www.regulations.gov*, if at all possible. Any alternative arrangements must be made with Donald W. Eiss in advance of transmitting a comment. Mr. Eiss should be contacted at (202) 395–3475. General information concerning USTR is available at *http://www.ustr.gov.*

Douglas Bell,

Chair, Trade Policy Staff Committee.

[FR Doc. 2012–17932 Filed 7–20–12; 8:45 am]

BILLING CODE 3290–F2–P

TRADE REPRESENTATIVE

Request for Comments on Negotiating Objectives With Respect to Mexico's Participation in the Proposed Trans-Pacific Partnership Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments on negotiating objectives with respect to Mexico's participation in the ongoing negotiations of a Trans-Pacific Partnership (TPP) trade agreement, and notice of public hearing.

SUMMARY: The United States intends to commence negotiations with Mexico as part of the ongoing negotiations of a TPP trade agreement. Including Mexico in the TPP negotiations furthers the objective of achieving a high-standard, broad-based Asia-Pacific regional agreement. The Office of the United States Trade Representative (USTR) is seeking public comments on all elements related to Mexico's participation in the TPP negotiations in order to develop U.S. negotiating positions.

DATES: Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as their testimony, by September 4, 2012. The hearing will be held in Washington, DC, on September 21, 2012. Written comments are due by noon, September 4, 2012.

ADDRESSES: *Submissions via on-line: www.regulations.gov.* For alternatives to on-line submissions, please contact Donald W. Eiss at (202) 395–3475.

FOR FURTHER INFORMATION CONTACT: For questions concerning requirements for written comments, please contact Donald W. Eiss at (202) 395–3475. All other questions regarding this notice should be directed to Kent Shigetomi, Director for Mexico and NAFTA, at (202) 395–3412.

SUPPLEMENTARY INFORMATION:

1. Background

On November 13, 2011, Mexican Economy Secretary Bruno Ferrari stated Mexico's intention to begin consultations with the current TPP participating countries regarding Mexico's participation in the TPP negotiations. On December 7, 2011, USTR published notices in the **Federal Register** (76 FR 76479), seeking public comments on Mexico's possible participation in the TPP negotiations.

On July 9, 2012, following consultations with relevant Congressional committees and after having reached consensus on Mexico's participation with the other TPP negotiating partners (Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore and Vietnam), the U.S. Trade Representative informed Congress that the President intends to commence negotiations with Mexico in the context of the ongoing negotiations of the TPP. The objective of this negotiation is to achieve a high-standard, 21st century agreement with a membership and coverage that provides economically significant market access opportunities for America's workers, manufacturers, service suppliers, farmers, ranchers, and small businesses. The addition of Mexico to the group of TPP negotiating partners will contribute meaningfully to the achievement of these goals.

In addition, under the Trade Act of 1974, as amended (19 U.S.C. 2151, 2153), in the case of an agreement such as the proposed TPP trade agreement, the President must (i) afford interested

persons an opportunity to present their views regarding any matter relevant to the proposed agreement, (ii) designate an agency or inter-agency committee to hold a public hearing regarding the proposed agreement, and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effects on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports pursuant to the proposed agreement.

USTR intends to hold a public hearing on matters related to Mexico's participation in the TPP negotiations on September 21, 2012. In addition, USTR has requested the ITC to provide advice to USTR on the probable economic effects of including Mexico in a TPP agreement.

2. Public Comments

To assist USTR as it develops its negotiating objectives for the agreement, the Trade Policy Subcommittee Chair invites interested persons to submit written comments and/or oral testimony at a public hearing on matters relevant to Mexico's participation in the TPP negotiations. Members of the public who submitted comments in response to the earlier request (76 FR 76479) need not make an additional submission unless the comments are different.

Comments and testimony may address the reduction or elimination of tariffs or non-tariff barriers on any articles provided for in the Harmonized Tariff Schedule of the United States (HTSUS) that are products of Mexico, any concession that should be sought by the United States, or any other matter relevant to the inclusion of Mexico in the proposed TPP agreement. The TPSC Chair invites comments on all of these matters and, in particular, seeks comments addressed to:

(a) General and product-specific negotiating objectives for Mexico in the context of this proposed regional agreement.

(b) Economic costs and benefits to U.S. producers and consumers of removal of tariffs and removal or reduction in non-tariff barriers on articles traded with Mexico.

(c) Treatment of specific goods (described by HTSUS numbers) under the proposed regional agreement, including comments on—

(1) Product-specific import or export interests or barriers,

(2) experience with particular measures that should be addressed in the negotiations, and

(3) approach to tariff negotiations, including ways to address export priorities and import sensitivities related to Mexico in the context of this regional agreement.

(d) Adequacy of existing customs measures to ensure that qualifying imported goods from TPP countries, including Mexico, receive preferential treatment, and appropriate rules of origin for goods entering the United States under the proposed regional agreement.

(e) Existing sanitary and phytosanitary measures and technical barriers to trade imposed by Mexico that should be addressed in the negotiations.

(f) Existing barriers to trade in services between the United States and Mexico that should be addressed in the negotiations.

(g) Relevant electronic commerce issues that should be addressed in the negotiations.

(h) Relevant trade-related intellectual property rights issues that should be addressed in the negotiations.

(i) Relevant investment issues that should be addressed in the negotiations.

(j) Relevant competition-related matters that should be addressed in the negotiations.

(k) Relevant government procurement issues that should be addressed in the negotiations.

(l) Relevant environmental issues that should be addressed in the negotiations.

(m) Relevant labor issues that should be addressed in the negotiations.

In addition to the matters described above, USTR is addressing new and emerging issues in this proposed regional agreement. Specifically, USTR is considering new approaches designed to promote innovation and competitiveness, encourage new technologies and emerging economic sectors, increase the participation of small- and medium-sized businesses in trade, and support the development of efficient production and supply chains that include U.S. firms in order to encourage firms to invest and produce in the United States. The Chair of the Trade Policy Staff Committee (TSPC) invites comments regarding how Mexico's participation in the negotiations might affect these new approaches. The TPSC Chair also invites comments on the impact of Mexico's participation in the negotiations on other trade-related priorities in this regional agreement, including environmental protection and conservation, transparency, workers rights and protections, development, and other issues.

USTR has already provided notice and requested comments on the scope for an environmental review of the proposed TPP trade agreement (see 75 FR 14470, March 25, 2010). As described above, the present notice invites comments on, among other topics, environmental issues to be addressed in the TPP negotiations to take into account Mexico's participation in the negotiation. Further comments are also invited on the environmental review, including possible changes in the scope or other issues that should be addressed in the review. At a later date, USTR, through the TPSC, will publish notice of reviews regarding the impact of the proposed agreement on U.S. employment and labor markets. These reviews will take into account Mexico's participation in the negotiations.

A hearing will be held on September 21, 2012, in Rooms 1, and 2, 1724 F Street NW., Washington, DC. Persons wishing to testify at the hearing must provide written notification of their intention by September 4, 2012. The notification should include: (1) The name, address, and telephone number of the person presenting the testimony; and (2) a short (one or two paragraph) summary of the presentation, including the subject matter and, as applicable, the products(s) (with HTSUS numbers), service sector(s), or other subjects (such as investment, intellectual property and/or government procurement) to be discussed. A copy of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC. Persons with mobility impairments who will need special assistance in gaining access to the hearing should contact the TPSC Executive Secretary.

Interested persons, including persons who participate in the hearing, may submit written comments by no later than noon, September 4, 2012.

Public Comment: Requirements for Submissions

Persons submitting written comments must do so in English and must identify (on the first page of the submission) ''Participation of Mexico in the Trans-Pacific Partnership Trade Negotiations.'' Persons may submit public comments electronically to *www.regulations.gov* docket number USTR–2012–0014. In order to be assured of consideration, comments should be submitted by noon, September 4, 2012.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site. Comments should be submitted under the following docket: USTR–2012–0014. To find the docket, enter the docket number in the ''Enter Keyword or ID'' window at the *http://*

www.regulations.gov home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notices'' under ''Document Type'' on the search-results page, and click on the link entitled ''Submit a Comment.'' (For further information on using the www.regulations.gov Web site, please consult the resources provided on the web site by clicking on the ''Help'' tab.)

The *http://www.regulations.gov* Web site provides the option of providing comments using the ''Type Comments'' field, or by attaching a document using the ''Upload File(s)'' field. USTR prefers submissions to be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field. USTR also prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comments'' field.

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Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

USTR strongly urges submitters to file comments through *www.regulations.gov*, if at all possible. Any alternative arrangements must be made with Donald W. Eiss in advance of transmitting a comment. Mr. Eiss should be contacted at (202) 395–3475.

General information concerning USTR is available at *http://www.ustr.gov.*

Douglas Bell,

Chair, Trade Policy Staff Committee.

[FR Doc. 2012–17933 Filed 7–20–12; 8:45 am]

BILLING CODE 3290–F2–P

DEPARTMENT OF TRANSPORTATION

[Docket DOT–OST–2010–0263]

Application of City Wings, Inc. D/B/A Seaflight for Commuter Authority

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause (Order 2012–7–22).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding City Wings, Inc. d/b/a Seaflight fit, willing, and able, and awarding it Commuter Air Carrier Authorization.

DATES: Persons wishing to file objections should do so no later than July 31, 2012.

ADDRESSES: Objections and answers to objections should be filed in Docket DOT–OST–2010–0263 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Damon D. Walker, Air Carrier Fitness Division (X–56, Room W86–465), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–7785.

Dated: July 17, 2012.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2012–17894 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2012–0087]

Advisory Committee for Aviation Consumer Protection

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of second meeting of advisory committee.

SUMMARY: This notice announces the second meeting of the Advisory Committee for Aviation Consumer Protection.

DATES: The second meeting of the advisory committee is scheduled for August 7, 2012, from 9:00 a.m. to 5:00 p.m., Eastern Time.

ADDRESSES: The meeting will be held in Meeting Rooms 8, 9 and 10 (located on the lobby level of the West Building with capacity for approximately 80 attendees) at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC. Attendance is open to the public; however, since access to the U.S. DOT headquarters building is controlled for security purposes, any member of the general public who plans to attend this meeting must notify the Department contact noted below at least five (5) calendar days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: To register to attend the meeting, please contact Amanda Stokes, Associate Research Analyst, Centra Technology, Inc., *stokesa@centratechnology.com*; 703–894–6529. For other information please contact Nicholas Lowry, Senior Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, *nick.lowry@dot.gov*; U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC, 20590; 202–366–9342 (phone), 202–366–7152 (fax).

SUPPLEMENTARY INFORMATION: On May 24, 2012, the Secretary, as mandated by Section 411 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95, 126 Stat. 11 (2012)), established the Advisory Committee on Aviation Consumer Protection and announced those persons appointed as members. By notice dated June 13, 2012, the Department announced the first meeting of the committee. That meeting was held on June 28, 2012. A charter for the committee, drafted in accordance with the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, sets forth policies for the operation of the advisory committee and is available on the Department's Web site at *http://www.dot.gov/affairs/2012/dot5912.html*.

The second meeting of the committee is scheduled for August 7, 2012, from 9:00 a.m. to 5:00 p.m. Eastern Time in Meeting Rooms 8, 9, and 10 at the Department's headquarters, 1200 New Jersey Ave. SE., Washington, DC 20590. The agenda topics for that second meeting will include a continuation of the presentation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) regarding its enforcement policies and initiatives relating to air travel by persons with

disabilities, which was cut short at the prior meeting. In addition, at the request of committee members, the following presentations are planned: (1) By representatives of the disability community with reference to the Department's program to protect the rights of disabled air travelers and recommendations for any new initiatives; (2) by representatives from both air carriers and the global distribution systems (GDSs) regarding regulatory issues in the display and sale of airline ancillary services through the GDSs; (3) by a representative of the industry regarding the airline industry's financial condition; and (4) by the Enforcement Office on the implementation status and the effects of the tarmac delay rule (14 CFR 259.4) and the new tarmac delay plan statutory approval requirement, 49 U.S.C. 42301.

As announced in our notice of June 13, meetings of the committee will be open to the public and, time permitting, comments by members of the public are invited. Since access to the U.S. DOT headquarters building is controlled for security purposes, we ask that any member of the general public who plans to attend the second meeting notify the Department contact noted above no later than five (5) calendar days prior to the meeting. Attendance will be necessarily limited by the size of the meeting room.

Members of the public may present written comments at any time. The docket number referenced above (OST 2012–0087, available at *https://www.regulations.gov*) has been established for committee documents including any written comments that may be filed. At the discretion of the Chairperson and time permitting, after completion of the planned agenda in the afternoon of the second meeting, individual members of the public may provide oral comments. Any oral comments presented must be limited to the objectives of the committee and will be limited to five (5) minutes per person. Individual members of the public who wish to present oral comments must notify the Department contact noted above via email that they wish to attend and present oral comments at least five (5) calendar days prior to the meeting. For this initial meeting, no more than one hour will be set aside for oral comments by the general public.

Persons with a disability who plan to attend the meeting and require special accommodations, such as an interpreter for the hearing impaired, should notify the Department contact noted above at least seven (7) calendar days prior to the meeting. Persons attending with a service animal should also advise us of that fact so that it can be taken into account in connection with space and possible allergy issues.

Notice of this meeting is being provided in accordance with the FACA and the General Services Administration regulations covering management of Federal advisory committees. (41 CFR Part 102–3.)

Issued in Washington, DC, on July 18, 2012.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement & Proceedings, U.S. Department of Transportation.

[FR Doc. 2012–17861 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for Philadelphia International Airport, Philadelphia, PA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by City of Philadelphia under the provisions of 49 U.S.C. 47501 *et seq.* (formerly the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 Code of Federal Regulations (CFR) Part 150 (hereinafter referred to as ''Part 150''). On June 1, 2010, the FAA determined that the noise exposure maps submitted by City of Philadelphia under Part 150 were in compliance with applicable requirements. On July 13, 2012, the FAA approved the Philadelphia International Airport noise compatibility program. Most of the recommendations of the program were approved.

DATES: *Effective Date:* The effective date of the FAA's approval of the Noise Compatibility Program for Philadelphia International Airport is July 13, 2012.

FOR FURTHER INFORMATION CONTACT: Susan McDonald, FAA, Harrisburg Airports District Office, 3905 Hartzdale Drive, Suite 508, Camp Hill, PA 17011, *susan.mcdonald@faa.gov*, (717) 730–2841. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Philadelphia International Airport, effective July 13, 2012.

Under section 47504 of the Act, an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required. Prior to an FAA decision on a request to implement the action, an

environmental review of the proposed action may be required. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under applicable law contained in Title 49 U.S.C. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Camp Hill, Pennsylvania.

The Philadelphia International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from January 20, 2012 to the year 2017. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 47504 of the Act. The FAA began its review of the program on January 24, 2012 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-two proposed actions for noise abatement, noise mitigation, land use planning and program management on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program was approved by the FAA, effective July 13, 2012.

Outright approval was granted for five specific program measures. These measures were; engine run-up restrictions; support of local municipalities in comprehensive planning strategies to reduce non-compatible land use; establish a noise abatement advisory committee; continue to develop the responsibilities of the Philadelphia International Airport Noise Office; and update the Noise Exposure Maps (NEMs) and Noise Compatibility Program (NCP). Fifteen program measures were approved subject to certain conditions. Conditions generally involved adherence to safety, design, regulatory standards or other conditions as determined necessary by FAA or airport operators. These measures were; use of Runways 09l/09R/17/35/08 noise abatement departure flight tracks; Runway 27L noise abatement departure flight track; Runway 27R noise abatement departure flight track; continue and expand the nighttime runway use program; encourage noise attenuating standards in airport development; continue the residential sound insulation program; develop and implement a purchase assurance program; develop and implement a Fort Mifflin sound insulation program; develop and implement a voluntary acquisition program; sound insulate educational facilities and places of worship; enhance the airport's existing noise monitoring and flight tracking system by acquiring a multilateration system; install additional permanent noise monitors, continue to develop an informal community awareness program; improve and upgrade web-based noise information; and develop and implement a Fly Quiet Program. Two program measures were disapproved for the purposes of Part 150. These measures were; support the creation and use of Area Navigation (RNAV) and Required Navigation Performance (RNP); and support the development of Continuous Descent Approaches (CDA). The two measures that were disapproved for the purposes of Part 150 because they do not have a measureable noise benefit to sensitive land uses within the Day-Night Level (DNL) 65 decibel noise contour. The airport can pursue or implement the measures outside of the Part 150 program.

These determinations are set forth in detail in a Record of Approval signed by the Acting Division Manager for the Eastern Region Airports Division on July 13, 2012. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the Philadelphia International Airport Office of the Noise Abatement Program Manager, at 2801 Island Avenue, Suite 13, Philadelphia, Pennsylvania. The Record of Approval also will be available on-line at: *http://www.faa.gov/airports_airtraffic/airports/environmental/airport_noise/part_150/states/*.

Issued in Jamaica, New York on July 16, 2012.

Debbie Roth,

Acting Manager, Eastern Region Airports Division.

[FR Doc. 2012–17858 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Environmental and Energy Policy Statement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Policy Statement.

SUMMARY: This is a statement affirming the FAA's environmental and energy policy for U.S. civil aviation. This policy statement outlines guiding principles, establishes initial high level performance goals, and describes strategies to achieve the goals.

DATES: July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Julie Marks, Office of Environment and Energy (AEE), Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; Telephone: (202) 267–3494.

SUPPLEMENTARY INFORMATION:

Policy Statement

Introduction

This policy statement affirms environmental and energy policy for U.S. civil aviation. The Next Generation Air Transportation System, commonly called NextGen, is the transformation of the U.S. aviation system by employing technological, operational, and infrastructure advances to provide improved safety, security, mobility, environmental performance, and quality of service.[1] The overarching environmental performance goal for NextGen is environmental protection that allows sustained [2] aviation growth.[3]

The primary environmental and energy issues that significantly influence the capacity and flexibility of the national aviation system are aircraft noise, air quality, climate, energy, and water quality. These issues are being addressed under a range of environmental laws and regulations, and by governmental and industry initiatives. Major strides in lessening the environmental effects of aviation have been made over the past several decades. However, aircraft noise continues to be the public's primary objection to near term aviation growth. Aircraft emissions contribute to air quality-related health effects, as do emissions from all combustion processes, and are causing heightened

[1] See Public Law 108–176, title VII, § 709, Dec. 12, 2003, 117 Stat. 2582.

[2] Sustainability means developing aviation in a manner that enhances and promotes the Nation's economic, environmental, and social initiatives.

[3] See the NextGen Integrated Plan (December 2004) Sections 5.1.6 and 7.6.

concerns locally and globally. The potential effects of aircraft emissions on the climate of our planet may pose the most serious long term environmental consequences facing aviation. Noise and emissions will be the principal environmental constraints on the capacity and flexibility of the national aviation system unless they are effectively managed and mitigated. It is important to build on current efforts and develop new strategies as the system is transformed with NextGen. In addition, energy supply, its cost, and the relationship between the burning of fossil fuels and climate change are driving increased emphasis on the need for energy conservation and sustainable alternative fuels. Finally, the nation's water quality requires continued protection from potential contamination from airport-related discharges.

These combined environmental and energy challenges must be successfully managed and mitigated for NextGen to realize its full potential and for the U.S. to meet the aviation transportation needs of the 21st century.

Environmental and Energy Policy Framework and Principles

This policy statement outlines guiding principles, establishes initial high level performance goals, and describes strategies to achieve the goals. The main guiding principles are (1) to limit and reduce future aviation environmental impacts to levels that protect public health and welfare and (2) to ensure energy availability and sustainability.

Two supporting principles are:

(1) Appropriate environmental protection measures combined with effective and efficient environmental reviews must be an integral part of strategies for future growth in air transportation. The implementation of a strategic Environmental Management System (EMS) approach should provide a foundation for improving the integration of environmental and energy assessment and performance into the planning, decision-making, and operation of the national aviation system.[4] The NextGen EMS approach, featuring collaboration across stakeholders, is a strategic concept that requires development, maturation and a robust implementation plan.

(2) Aviation must have reliable and sustainable sources of energy and must use that energy efficiently and in a manner that is consistent with environmental protection. Continuing progress in energy efficiency and pioneering advances in sustainable alternative aviation fuels will be key components of NextGen.

Based on these guiding principles, this policy statement is intended to be a living document. The initial high level goals presented below will serve as the guide for setting of specific quantitative performance targets. We will periodically review the goals, targets, and strategies to achieve them and refine them over time based on better scientific knowledge, changing environmental protection and energy needs, and improved technological and operational capabilities. They are additionally subject to review and revision based on Administration policy guidance, particularly with respect to energy, climate, and sustainability. New goals, targets, and strategies may be defined based on these same factors.

Key Aviation Environmental and Energy Goals

Each of the following initial goals is presented by impact area—noise, air quality, climate, energy, and water quality. These goals are established at levels intended to reduce future aviation environmental and energy impacts sufficiently to protect public health and welfare while allowing sustained air transportation growth. They are high level goals at the aviation system-wide level, and are intended to be common to all individual organizational EMSs.

Each goal will have quantitative targets that are actionable and can be used to measure progress. Initial targets, some of which have been established, will be based upon currently available scientific knowledge of aviation's impacts and will take into account near term operational and technological improvements.

Noise Goal: Reduce the number of people exposed to significant noise around U.S. airports in absolute terms, notwithstanding aviation growth, and provide additional measures to protect public health and welfare and our national resources.[5]

The number of people in the U.S. exposed to significant aircraft noise since 1975 has dropped by 90 percent, an impressive reduction primarily due to reductions in aircraft source noise and phase outs of Stage 1 and 2 aircraft over 75,000 pounds. Yet noise remains a predominant aviation environmental concern of the public, one of the principal environmental obstacles to expanding airport and airspace capacity, and the one that has used the most mitigation resources—including funding from the Airport Improvement Program (AIP) and Passenger Facility Charges (PFC). The persistence of significant levels of aircraft noise in communities around airports is the major impact, but not the only one. There are increasing concerns in areas of moderate noise exposure and public complaints from suburban and rural areas where ambient noise is lower. At noise exposure levels below those involving health and welfare concerns, there are also sensitivities with respect to national resources such as national parks. While techniques and tools for measuring and modeling noise exposure provide a reliable means of assessing the levels of aircraft noise to which people are exposed, focused research could improve our scientific knowledge base of the extent of impacts and appropriate mitigation below historically-defined significant noise levels.

Air Quality Goal: Achieve an absolute reduction of significant air quality health and welfare impacts attributable to aviation, notwithstanding aviation growth.[6]

Aviation's impact on air quality, through emissions of specific pollutants, is a growing concern.[7] Emissions of criteria pollutants [8] contribute to surface air quality deterioration, resulting in human health and welfare impacts.[9] The focus for commercial aviation and airport infrastructure is on reducing emissions of Nitrogen Oxides (NO_X), Particulate Matter (PM), Sulfur Dioxide (SO_2), and Hydrocarbons (HC). Lead (Pb) is an issue for general aviation since more than 200,000 piston-engine aircraft rely on leaded AvGas for safe operation and produce about half of all lead emissions in the U.S. At the airport level, about 30 percent of U.S. commercial service airports are in non-attainment areas that do not meet national air quality standards or in maintenance areas. For these airports, emissions issues add to the complexity and uncertainty of expansion proposals. An increasing number of airports have invested in low emission vehicular

[4] *http://www.jpdo.gov/library/20101123_JPDOPaper_EMS_Strategy_v3.0.pdf.*

[5] See the 2004 FAA Report to Congress on Aviation and Environment at *www.faa.gov/library/reports/media/congrept_aviation_envirn.pdf.*

[6] See the 2004 FAA Report to Congress on Aviation and Environment at *www.faa.gov/library/reports/media/congrept_aviation_envirn.pdf.*

[7] See 2009 Partnership for AiR Transportation Noise and Emissions Reduction (PARTNER) Center of Excellence (COE) Report titled Aircraft Impacts on Local and Regional Air Quality in the United States at *http://web.mit.edu/aeroastro/partner/reports/proj15/proj15finalreport.pdf.*

[8] There are six criteria pollutants identified in the Clean Air Act: Ozone; Lead; Nitrogen Oxides; Carbon Monoxide; Sulfur Dioxide; and Particulate Matter.

[9] Includes health impacts such as increased risks of mortality or morbidity as well as impacts that influence psychological well-being and happiness.

fleets and ground support equipment to reduce emissions. The national air quality standards are expected to become more stringent in the future, placing more pressure on aviation to reduce emissions despite growth.

Climate Goal: Limit the impact of aircraft CO_2 emissions on the global climate by achieving carbon neutral growth [10] by 2020 compared to 2005, and net reductions of the climate impact from all aviation emissions over the longer term (by 2050).[11]

The potential effects of aircraft emissions on the global climate may be the most serious long-term environmental and energy issues facing aviation. Aircraft account for about 3 percent of both national and worldwide carbon dioxide (CO_2) emissions. Aircraft have been projected to contribute a larger portion of greenhouse gas emissions in the future—perhaps 5 percent by 2050—based on projected aviation growth assumptions and the prospect of easier transition to alternative technologies and fuels for land transport modes.[12] There are additional concerns specific to aircraft as the majority of emissions from a given flight are directly released into the chemically complex and sensitive region of the upper troposphere and lower stratosphere. While CO_2—accounting for the bulk of aviation greenhouse gas emissions—has the same effects regardless of where it is emitted, certain emissions may have greater effects when released at altitude. In addition, aircraft emissions of water vapor and aerosols lead to the formation of contrails and modification of cirrus cloud distribution, both of which can impact earth's climate. There is not yet sufficient scientific knowledge about aircraft contrails to determine their impact on climate or to adopt measures to deal with them. There are multiple, interrelated impacts due to aircraft emissions with varying degrees of understanding, with CO_2 being the best understood and quantified.

Energy Goal: Improve National Airspace System (NAS) energy efficiency by at least two percent per year, and develop and deploy alternative jet fuels for commercial aviation.[13]

Aircraft engine and airframe advances, together with improved air traffic management and operating procedures, have dramatically improved aircraft fuel efficiency. The aircraft energy efficiency improvement over the last 20 years has outpaced other forms of transportation in the U.S. Notwithstanding this success, there is renewed emphasis on improving the fuel efficiency of the aviation system. Fuel currently represents the largest operating cost for U.S. airlines, and this cost category has grown dramatically in recent years. The air traffic modernization planned under NextGen should further improve efficiency by reducing delays and enabling more direct routings. Sustainable practices by airport operators can conserve energy, make use of renewable resources (solar, wind, geothermal), and deploy low emission vehicles and ground support equipment.

Moreover, advances in the development of sustainable alternative fuels offer great promise for emissions reduction. Nearly 100 percent of the fuel used in aviation operations is petroleum based—raising issues of energy supply, energy security, and fossil fuel emissions affecting air quality and climate. In response to these multiple concerns, government and the aviation industry have a strong interest in ''drop in'' alternative aviation fuels that can be blended with or replace petroleum jet fuel with no changes to existing engines, aircraft, ground infrastructure, and supply equipment.

Alternative fuel options that use plant oils, sugars, or cellulose from plants have the potential to dramatically reduce CO_2 emissions, if produced in a sustainable manner. Generally, all alternative aviation fuel options appear to reduce particulate matter emissions in engine exhausts—a cause of respiratory ailments, although not unique to aviation as a source.

Water Quality Goal: Limit the adverse aviation discharges to U.S. waters and reduce aviation's contribution to significant water quality impacts.[14]

Many U.S. airports are located near waterways and wetlands because, when airports were originally built, the best available land suitable for an airport (flat and inexpensive) was often found near water. As a result, aviation has the potential to adversely affect surface water and groundwater biologically, chemically, and physically. Runoff containing sediments, fluids, fuel, construction materials, and other waste products can cause adverse water quality and biotic community impacts during airport construction. Apart from construction, an airport's storm water discharges, aircraft and pavement deicing activities, and aircraft fueling and maintenance procedures can contribute further to water quality impacts. As an example, biological and chemical breakdown of deicing chemicals in airport runoff can cause severe dissolved oxygen demands on receiving waters. Additives in deicing chemicals may be toxic to aquatic life. The Nation's water quality is controlled by legislation and regulations, permit programs, spill control prevention planning, and best management practices. It is important for aviation to continue efforts to minimize discharges that adversely affect water quality.

Aviation Environmental and Energy Strategies

The environmental and energy challenges confronting aviation are not amenable to a single solution; rather, they will require multiple solutions involving innovations in technology, operations, planning, and sustainability. A five-pillar comprehensive and integrated approach to achieving aviation environmental and energy goals, based on aviation's traditional strengths of technological and operational innovation, is outlined below with examples provided under each strategy.

Improved Scientific Knowledge and Integrated Modeling. Aviation environmental analyses, impact determinations, and mitigation decisions for NextGen activities must continue to be based on a solid scientific foundation. This will require continued investments in research to improve our scientific understanding of the impacts of aviation. This is particularly important with respect to aviation's effects on climate. It is also germane to gaining a more nuanced and multi-faceted understanding of noise impacts, given community concerns with aircraft noise and public pressures to mitigate noise at levels lower than current Federal guidelines. In addition, the development and use of advanced decision-support tools that account for interdependencies of impacts and cost-benefit analyses of potential solutions will facilitate more informed decision-making. Prospective solutions and

[10] Carbon neutral growth is no higher carbon dioxide emissions in 2020 than is reported in 2005.

[11] Goal unveiled by U.S. at COP/15 and documented in Canada, Mexico, U.S. Position presented at ICAO's 37th Assembly. See Working Paper titled A More Ambitious, Collective Approach to International Aviation Greenhouse Gas Emissions, Section 2.3.

[12] See Intergovernmental Panel on Climate Change Fourth Assessment Report, ''Working Group 1: The Physical Science Basis,'' 2007.

[13] See ICAO Assembly Resolution A37–19: Consolidated statement of Continuing ICAO policies and practices related to environmental protection—Climate change, Section 23.g).

[14] This goal is consistent with Sections 401, 402, and 404 of the Federal Pollution Control Act of 1972, as amended (now the Clean Water Act) and the National Environmental Policy Act (NEPA) of 1969.

combinations of solutions have different impacts, benefits, and costs. Some solutions have the ability to optimize for one area of environmental protection at the expense of another, and trade-offs should be as transparent as possible.

Air Traffic Management Modernization. The development and integration of advanced operational procedures and infrastructure improvements will foster National Airspace System (NAS) operational capabilities that will function more efficiently and contribute to mitigating environmental impacts and improving energy efficiency. NextGen will increase the efficiency of aircraft operations, both in the air and on the airport surface. Improving efficiency saves time and fuel. Reducing fuel consumption reduces CO_2 emissions that affect climate and other emissions that adversely affect air quality. Fuel burn, emissions, and flight times can be cut by Performance Based Navigation (RNAV/RNP) routes. Optimized Profile Descents can reduce noise, emissions, and fuel consumption. NextGen technology and procedures that optimize gate-to-gate operations are being demonstrated with international partners in Europe and Asia-Pacific to reduce fuel burn, emissions, and noise.

New Aircraft Technologies. Historically, new technologies have offered the greatest success in reducing aviation's impacts. New engine/airframe technologies will need to play key roles in achieving aviation environment and energy goals. The U.S. will support advances in engine technology and airframe configurations to lay the foundation for the next generation of aircraft. Our technological strategy envisions a fleet of quieter, cleaner aircraft that operate more efficiently with less energy. The FAA and NASA, along with the Department of Defense, closely coordinate efforts on aeronautics technology research through the President's National Science and Technology Council's multi-agency National Aeronautics Research and Development Plan. Each agency focuses on different elements but they share the same national goals. The FAA's focus is on maturing technologies for near term application, while NASA focuses on a broader range of time frames of technology development. This includes future concepts such as electric aircraft.

Sustainable Alternative Aviation Fuels. Sustainable alternative aviation fuels development and deployment offer prospects for enabling environmental improvements, energy security and economic stability for aviation. The aviation industry has made a commitment to convert its fuel supply to alternative fuels.[15] Government and industry are working cooperatively with coordinating mechanisms such as the Commercial Aviation Alternative Fuels Initiative (CAAFI) and are supporting alternative fuels research. Near term efforts include adding new classes of fuels to the approved alternative jet fuel standard by ASTM International, conducting aircraft flight tests using alternative fuels and ascertaining their emissions characteristics, lifecycle greenhouse gases, and sustainability. A number of challenges remain to sustainable alternative fuel deployment, including financing for commercial production.

Policies, Environmental Standards, and Market-based Measures. Development and implementation of appropriate policies, programs, regulations, and mechanisms are critical to support advantageous technology and operational innovations and accelerate their integration into the commercial fleet, the airport environment, and entire national aviation system. The NextGen EMS approach will integrate environmental protection objectives into NextGen and facilitate National Environmental Policy Act (NEPA) reviews. Cooperative partnerships between government and industry can focus and leverage funding in ways that are beneficial for aviation and good for the environment. There is a need for continued and enhanced exploration of the most effective means to address residual aircraft noise impacts that cannot be reduced through technologies to guide capital investments in noise mitigation such as sound insulation, to encourage adequate land use planning, and to support other methods. Internationally, the U.S. is leading efforts at the International Civil Aviation Organization (ICAO) to limit and reduce international aviation emissions, including development of a CO_2 standard for aircraft, and a new particulate matter (PM) certification requirement for engines. ICAO has additionally agreed to explore more ambitious goals for the aviation sector, including carbon neutral growth in the mid-term and reductions in the long term. The U.S. is exploring the effectiveness of various policies, including economic incentives to limit and reduce CO_2 emissions. The U.S. is also supporting studies to investigate the need, cost and trade-offs, and the technological feasibility of more stringent noise standards. Additionally, if we are to achieve environmental and energy goals beyond the near term, policies may be needed to accelerate the integration of new technologies into the civil fleet compared to the normal rate of introduction and replacement.

[15] See 2011 The Future of Aviation Advisory Committee (FAAC) Final Report; *http://www.dot.gov/faac/environment.html.*

Roles, Responsibilities, and Harmonization

Developing the future air transportation system is a shared responsibility among U.S. government agencies and the aviation industry that involves effective planning, research and development, resource deployment, performance, and collaboration. The Federal government is responsible for national policy and regulations including aircraft noise and emissions, aviation safety, airspace management and air traffic control, research and development, and managing Federal investments in the NAS. Airport proprietors are responsible for managing their airports, including planning and implementing actions to mitigate the adverse effects of airport operations and development on community noise, air quality, and water quality consistent with Federal regulations. Manufacturers of airframes and engines engage in research and development and produce the new technologies that are so critical to reducing the environmental footprint of aviation. Air carriers, air freight operators, and other aircraft operators make product purchase decisions that affect fleetwide environmental performance and fly and service aircraft in ways that affect fuel use and environmental impacts. The use of EMSs by aviation stakeholders contributing to NextGen will play an important role in achieving the environmentally sustainable growth of air transportation.

It is also important to recognize that civil aviation is an inherently global endeavor. We are committed to a sustainable national aviation system that is seamlessly integrated with the larger international system. This will require harmonization with international standards, recommended practices, and guidance through ICAO. This aviation environmental and energy policy statement is intended to be implemented constructively within the larger international system.

Conclusion

Aviation has features that distinguish it from other transportation modes and industries that must be factored into the application of environmental and energy strategies. A high premium on safety demands the incorporation of only proven and technically sound technologies to reduce environmental impacts. Aircraft are high cost and have

a long life span, requiring long lead times for new technologies to be widely incorporated in the fleet and close attention to financial feasibility. Airborne systems must be lightweight and fuel-efficient. Airlines and other aircraft operators will need to invest the capital to purchase aircraft with new technologies for aviation to realize the environmental and operational benefits. Airport infrastructure requires substantial planning and construction effort, as well as public and financial support. Noise, air quality, and climate effects of aviation result from an interdependent set of technologies and operations, so that action to reduce impacts in one area (e.g., aircraft engine noise) can increase impacts in another area (e.g., nitrogen oxides emissions). Efforts to protect water quality by reducing deicing fluid discharge could affect safety and efficiency of operations. Such considerations increase the challenge of achieving ambitious environmental and energy goals. Nevertheless, aviation's impressive record of creativity and innovation can rise to these challenges.

This policy statement is intended to outline strategies and approaches necessary to meet the environmental and energy challenges that confront the U.S. civil aviation system. There is a shared commitment to moving the aviation sector to environmental performance that will reduce aviation's noise, air quality, climate, energy, and water quality impacts notwithstanding the anticipated growth in aviation. Through broad inclusion and sustained commitment among all stakeholders, the U.S. will be a global leader in researching, developing, and implementing technological, operational and policy initiatives that address mobility and environmental needs.

Lourdes Q. Maurice,

Executive Director, Office of Environment and Energy.

[FR Doc. 2012–15908 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Carrier Hazardous Materials Passenger Notification Requirements: Acceptable Means of Compliance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting and related information.

SUMMARY: This notice is to advise interested persons that the Federal Aviation Administration (FAA), in coordination with the Pipeline and Hazardous Materials Safety Administration (PHMSA), will conduct a public meeting to discuss Air Carrier Hazardous Materials Passenger Notification Requirements and Acceptable Means of Compliance with 49 CFR 175.25. The public meeting, to be held on August 16th, 2012 in Washington, DC, is intended to provide interested persons with an opportunity to submit comments and participate in discussions concerning the acceptability of various means of compliance with federal hazardous materials regulations.

DATES: August 16th, 2012; from 1 p.m. to 4 p.m.

Meeting Location

Airlines for America, 1301 Pennsylvania Ave. NW., 11th Floor, Washington, DC 20004.

Any person wishing to attend the public meeting (in person or via telephone) should send an email to *9-AWA-ASH-ADG-HAZMAT@faa.gov* with the subject line ''Attendee Information for Passenger Notification Meeting'' no later than the close of business on August 9th, 2012. Please include the names and contact information (Organization/Email/Address/Telephone Number) for any individuals planning to attend, and indicate whether attendance will be in person or via telephone. Providing this information will allow us to send you meeting documents prior to the meeting, assist us in recordkeeping for the meeting, facilitate the security screening process for entry into the building on the day of the meeting, and ensure adequate seating space and telephone conference lines for all attendees.

We are committed to providing equal access to this meeting for all participants. If you need alternative formats or other reasonable accommodations, please call (202) 385–4916 or email: *9-AWA-ASH-ADG-HazMat@faa.gov* with your request by the close of business on August 9, 2012.

Attendees will be required to check in with the security desk in the building lobby, 1st floor. When they get to the 11th floor, a receptionist will guide them to the meeting room.

Conference Call Information: Telephone conference capability will be provided to allow participation from interested individuals who are unable to attend the meeting in person. To join the telephone conference, call (605) 475–3200 and enter passcode 981243#.

Prior to the meeting, copies of documents for the Air Carrier Hazardous Materials Passenger Notification Requirements Public Meeting and the meeting agenda will be distributed by email to all individuals who register as participants at the meeting.

Comment Submission: Stakeholders are encouraged to submit comments prior to the August 16th, 2012 public meeting by emailing to *9-AWA-ASH-ADG-HAZMAT@faa.gov.* Please mark submissions with the subject line ''Comments for Passenger Notification Public Meeting.'' After the meeting, all comments received will be posted without change to the following Web site, including any personal information: *http://www.faa.gov/about/office_org/headquarters_offices/ash/ash_programs/hazmat/aircarrier_info/.*

FOR FURTHER INFORMATION CONTACT: Kenneth Miller, Federal Aviation Administration, Office of Hazard Materials Safety (ADG–1), 800 Independence Ave. SW., Washington, DC 20591. Email: *kenneth.miller@faa.gov.* Phone: 202–385–4916

SUPPLEMENTARY INFORMATION:

I. Background

49 CFR 175.25 defines requirements for notification at air passenger facilities of hazardous materials restrictions. One primary purpose for this rule is to enhance public safety awareness regarding the carriage of hazardous materials onboard aircraft, either as carry-on items or in checked baggage. Improved public safety awareness in this area increases passenger compliance with applicable 49 CFR requirements, thus enhancing overall aviation safety by reducing the likelihood of inappropriate items being transported onboard aircraft.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended 49 CFR 175.25 on January 19, 2011 (76 FR 3382). The amendments included requirements for passenger notification during ticket purchase and check-in. The amended rule has an effective date of January 1, 2013. While PHMSA has the primary responsibility for issuing 49 CFR regulations, the FAA has primary responsibility for overseeing compliance with these regulations as they pertain to air transportation. PHMSA and the FAA have received numerous inquiries regarding specific interpretations of the amended requirements and the acceptability of certain means of compliance with the revised rules.

II. Purpose of Public Meeting

The FAA seeks to collaborate with the air passenger transportation community in defining and implementing a

standard means of compliance with the 49 CFR 175.25 requirements. FAA envisions this collaboration occurring through the following process:

Step 1—Initial Public Meeting (the subject of this announcement, discussed in detail below).

Step 2—FAA posting for public comment a draft advisory circular describing one acceptable means of compliance with 49 CFR 175.25. This means of compliance would be the recommended standard for compliance.

Step 3—FAA posting of a final advisory circular, including dispositions to comments received on the draft advisory circular.

FAA, in coordination with PHMSA, is holding this public meeting to provide an opportunity for all interested parties to comment on the FAA's plan for collaboration with the air passenger transportation community. This meeting is also intended to provide an opportunity for all interested parties to provide input on the standard means of compliance for 49 CFR 175.25.

The FAA and PHMSA also seeks input on the anticipated implementation timeline for a standard means of compliance with 49 CFR 175.25 requirements, relative to the current effective date for amendments to 49 CFR 175.25 adopted in 76 FR 3382. Stakeholders are encouraged to submit questions, comments, recommendations, and other input in advance. (Please see the Comment Submission section above.)

III. Clarification Questions Regarding 49 CFR 175.25

In preparation for this public meeting, the FAA and PHMSA are providing responses below to questions regarding specific interpretations of the 49 CFR 175.25 rule. The following questions were submitted to the FAA by the Council on Safe Transportation of Hazardous Materials (COSTHA).

Q1. Section 175.25(b)—Ticket Purchase: Is the intent of amendments to this section adopted in the January 19, 2011 final rule (76 FR 3308; PHMSA–2009–0126 (HM–215K)) to require a carrier to provide the permitted and forbidden text or pictorials by Jan 1, 2012 and the passenger acknowledgement provisions by Jan 1, 2013?

A1. While § 175.25(b) took effect January 1, 2012, the passenger acknowledgement portion of the rule is scheduled to take effect January 1, 2013.

Q2. Is Ticket Purchase defined anywhere in the regulations within or beyond the HMR? Not all passengers are issued tickets. For example, does this section apply to non-revenue or employee travel?

A2. As defined in 14 CFR 241.03 and for the purpose of this response, a non-revenue passenger means a person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat.

Section 175.25(b) notification requirements apply to ticketed passengers only. However, non-revenue passengers, airline employees traveling as passengers onboard, and other non-ticketed passengers remain subject to requirements of the HMR, and actions by non-ticketed passengers can affect the safety of an air carrier's operation. While § 175.25 does not define specific notification requirements for non-ticketed passengers, the FAA and PHMSA solicit input on best practices for notification of all passengers (ticketed and non-ticketed) for inclusion in a future FAA advisory circular.

Q3. Do the requirements of § 175.25 apply to third party travel sites operated by travel agents and online travel retailers (Orbitz, Expedia, Travelocity, etc.)? If so, is it the responsibility of the carrier or the travel agent/retailer to provide the required passenger notification? The International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), at Part 8:1.1.3, states ''Any organization or enterprise other than an operator (such as a travel agent) * * * should provide passengers with information about the types of dangerous goods * * *'' Thus, it appears the ICAO Technical Instructions places the responsibility to notify passengers in these situations on the third party provider, and not the carrier.

A3. The requirements of § 175.25 apply to the aircraft operator. The aircraft operator is responsible for ensuring that passengers receive the notifications required by § 175.25, regardless of whether the ticket is purchased directly from the aircraft operator or via a third party source. The aircraft operator can meet its obligations by relying on the notifications provided to the passenger by a third party, but the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice arrangements between aircraft operators and third party travel organizations for inclusion in a future FAA advisory circular on passenger notification.

Q4. In a situation where a customer purchases a ticket over the phone (e.g., by calling a reservation center), what constitutes compliance with the rule? Do PHMSA and FAA expect a verbal reading of § 175.25(a)(1) and (2), or would a simplified statement that guides them to additional information (i.e., carrier Web site) suffice?

A4. A simplified statement may be acceptable, and may actually be the preferred means of compliance. The FAA and PHMSA solicit input on best practices for passenger notification via telephone for inclusion in a future FAA advisory circular.

Q5. Is dual acknowledgement (at the time of ticket purchase—paragraph (b), and time of check-in—paragraph (c)) intentional? If a passenger acknowledges at the time of ticket purchase, could a record of that acknowledgement also be used to meet the acknowledgement in section § 175.25(c)?

A5. The dual acknowledgement during ticket purchase and check-in is intentional and required for compliance.

Q6. In a Rule 240 scenario where a passenger is re-accommodated on another carrier due to canceled flights or other reasons, would a third check-in acknowledgement be required?

A6. Although an aircraft operator may meet its obligations by relying on notifications provided to the passenger by a third party, the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice arrangements during re-accommodation situations for inclusion in a future FAA advisory circular on passenger notification.

Q7. In a bulk purchase or charter situation, would a single individual responding on behalf of their party be acceptable for compliance with § 175.25(b) and (c)? Would such an acknowledgement be acceptable for military charters as well?

A7. Both § 175.25(b) and (c) allow for acknowledgement by a person acting on the passenger's behalf. While this allows for acknowledgement by a single individual, PHMSA and FAA solicit input on best practices for notification of passengers in bulk purchase, charter flight, or similar situations for inclusion in a future FAA advisory circular.

Q8. Is the actual language in § 175.25(a)(1) and (2) required in all cases? If so, how does a carrier provide notice of additional materials forbidden beyond those covered in the general language? The ICAO Technical Instructions do not require specific language but instead require the carrier

to develop their own language and format.

A8. The information provided in § 175.25(a)(1) and (2) is required, but the specific wording used in the HMR is not required. Further, no part of § 175.25 is intended to prevent aircraft operators or other individuals from providing additional information to passengers regarding the safe transport of hazardous materials. The FAA and PHMSA solicit input on best practices for conveying hazardous materials safety information, including the information provided in § 175.25(a)(1) and (2), for inclusion in a future FAA advisory circular on passenger notification.

Q9. This rule applies to 14 CFR 129 foreign carriers that operate from the U.S. Currently, there are 14 types of hazmat listed in the ICAO Technical Instructions, at 8;1.1, as ''permitted with the approval of the operator.'' Thus, there may be considerable differences between each U.S. and foreign airline as to what is ''permitted or forbidden'' by each operator. Note that the ICAO Technical Instructions, at 8;1.1.3 and 8;1.1.4, do not require the types ''permitted'' either—only the types of hazmat ''forbidden'' needs to be communicated. If a passenger checks-in with a foreign carrier and then transfers to a domestic carrier, does the original check in notification satisfy the passenger notification for the domestic leg as well?

A9. The aircraft operator may meet their obligations by relying on notifications provided to the passenger by a third party, but the aircraft operator is ultimately responsible for compliance with the rule. The FAA and PHMSA solicit input on best practice arrangements between foreign and domestic air carriers for inclusion in a future FAA advisory circular on passenger notification.

Q10. In the case of remote check-in and boarding, where the passenger checks in at a remote location and checks baggage as well, such as a resort, cruise line, or military charter situations, does the carrier have the responsibility to notify the passenger, or is the resort, cruise line, or military branch responsible for notification? Under these scenarios, a non-carrier operation performs the check-in function. Therefore, the carrier has limited or no contact with the passenger during the check-in process. An example would include a military charter originating from a U.S. military installation.

A10. The requirements of § 175.25 apply to the aircraft operator. The aircraft operator is responsible for ensuring that passengers receive the notifications required by § 175.25, regardless of whether the passenger checks-in directly with the aircraft operator or via a third party source. Although the aircraft operator may meet its obligations by relying on notifications provided to the passenger by a third party, but the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice arrangements between aircraft operators and third party organizations for inclusion in a future FAA advisory circular on passenger notification.

Q11. Lithium batteries have received a significant amount of attention by regulatory and enforcement entities over the last 5 years. Much of this attention is due to incidents involving such batteries, including incidents occurring in passenger baggage. Yet, the current language in § 175.25 does not mention lithium batteries. Is it acceptable for a carrier to develop independent language that conveys the intent of the language in § 175.25(a)(1) and (2) but varies in content to address recent incidents or trends? May this language be used as an alternative to the language contained in § 175.25(a)? We strongly believe the restrictive language indicated in § 175.25 is ineffective in communicating hazardous material dangers and restrictions in passenger baggage to the traveling public.

A11. The information provided in § 175.25(a)(1) and (2) is required, but the specific wording used in the HMR is not. Further, no part of § 175.25 is intended to prevent aircraft operators or other individuals from providing additional information to passengers regarding the safe transport of hazardous materials. The FAA fully supports inclusion of information regarding lithium battery hazards in passenger notifications. The FAA and PHMSA solicit input on best practices for conveying hazardous materials safety information, including the information provided in § 175.25(a)(1) and (2), for inclusion in a future FAA advisory circular on passenger notification.

Issued in Washington, DC, on July 17, 2012.

Christopher Glasow,

Director, FAA Office of Hazardous Materials Safety.

[FR Doc. 2012–17850 Filed 7–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Limitation on Claims for Judicial Review; Re-Evaluation With Respect to the Willits Bypass Project, Willits, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation.

SUMMARY: This notice announces that Federal actions taken by the California Department of Transportation (Caltrans) pursuant to its assigned responsibilities under 23 U.S.C. 327 are final within the meaning of 23 U.S.C. 139(*l*)(1). FHWA, on behalf of Caltrans, is issuing this notice to announce that, with respect to the State Route 101 Willits Bypass Project in Willits (Mendocino County), California, two Re-evaluations were prepared in order to determine whether a supplemental Environmental Impact Statement (SEIS) should be undertaken. Based upon the analyses contained in the Re-evaluations, Caltrans has made the determination that preparation of a SEIS is not warranted and will therefore not be undertaken.

SUPPLEMENTARY INFORMATION: Caltrans conducted two Re-evaluations of the Final Environmental Impact Statement (FEIS) issued by FHWA in October 2006 (a Record of Decision for which was posted in the **Federal Register** in January 2007). The first Re-evaluation was conducted in June 2010 in response to new information and changes that were made to the project, including changes to the preferred alignment to reduce and/or avoid impacts, acquisition of mitigations parcels, and relocation of utilities.

The second Re-evaluation was conducted in December 2011 in response to new information and changes that were made to the project, including changes and new information pertaining to Baker's Meadowfoam, agricultural lands, fires, floods, invasive plants, and economic impacts of the mitigation parcels, greenhouse gas, aesthetics, historic properties, and land use.

The purpose of the Re-evaluations was to examine potential environmental impacts resulting from the new information and proposed changes to the Willits Bypass Project and in order to determine whether a SEIS should be prepared in accordance with 40 CFR 1502.9(c). Based upon the Re-evaluations, Caltrans made the determination that preparation of a SEIS

was not warranted and would not be undertaken (Caltrans made the determination for the first Re-evaluation on June 17, 2010 and for the second Re-evaluation on December 28, 2011).

A claim seeking judicial review of the June 2010 and December 2011 Federal agency determinations to not undertake a SEIS will be barred if the claim is not filed within 180 days of the initial publication of this notice in the **Federal Register**.

Copies of the Re-evaluations are available for review by appointment only at the following locations. Please call to make arrangements for viewing:

Caltrans, District 3 Office, 703 B Street, Marysville, CA 95901, 530–741–4393, and Caltrans, District 3 Office, 2379 Gateway Oaks Drive, #150, Sacramento, CA, 916–274–0586.

FOR FURTHER INFORMATION CONTACT: John Webb, Supervisory Environmental Planner, California Department of Transportation, 703 B Street, Marysville, CA 95901, 530–741–4393, *John_Webb@dot.ca.gov*.

Issued in Sacramento, California, July 12, 2012.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: July 17, 2012.

Michael J. Duman,

Chief Operating Officer, Federal Highway Administration, Sacramento, California.

[FR Doc. 2012–17875 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the following locations: Salt Lake City, Salt Lake County, UT; Alameda County, CA; Cambridge, Medford, and Somerville, MA; Contra Costa County, CA; and Los Angeles County, CA. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before January 21, 2013.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m. EDT, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov*.

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period of 180 days for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Central Bus Operations and Maintenance Facility, Salt Lake City, Salt Lake County, UT. *Project sponsor:* Utah Transit Authority (UTA). *Project description:* The project will construct a new and larger bus facility to replace the existing one. The new facility will include bus storage for up to 250 vehicles, a new maintenance and operations building, fuel/wash operations, a tank farm, compressed natural gas fueling facilities, detail bays, chassis wash bays, and a permanent location for support vehicles and equipment. *Final agency actions:* Section 4(f) determination; a Section 106 Memorandum of Agreement; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated June 30, 2012. *Supporting documentation:* Environmental Assessment, dated May 2012.

2. Project *name and location:* East Bay Bus Rapid Transit Project, Alameda County, CA. *Project sponsor:* Alameda Contra Costa Transit District (AC Transit). *Project description:* The project proposes to provide bus rapid transit (BRT) service along 9.52 miles from Downtown Oakland to the San Leandro BART Station. The project would operate with transit priority at all signalized intersections, new passenger stations, and a combination of mixed-flow and dedicated travel lanes throughout the alignment. The project would also feature pedestrian amenities, landscape treatments, barrier-free self-service proof of payment fare collection, real-time bus arrival information, and low-floor, dual-sided door buses. *Final agency actions:* No use of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Record of Decision (ROD), dated June 8, 2012. *Supporting documentation:* Final Environmental Impact Statement/Final Environmental Impact Report (Final EIS/EIR), dated January 2012.

3. *Project name and location:* Green Line Extension Project; Cambridge, Medford, and Somerville, MA. *Project sponsors:* Massachusetts Department of Transportation and Massachusetts Bay Transportation Authority. *Project description:* The project is to extend light rail transit service to College Avenue in Medford and Union Square in Somerville using a two branch operation, both within existing commuter rail rights-of-way. The 3.4 mile-long Medford Branch would operate from a relocated Lechmere Station to College Avenue. The 0.9 mile-long Union Square Branch would begin at the relocated Lechmere Station and terminate at Union Square in Somerville. The project includes a proposed maintenance and storage facility that will be required to support the Green Line Extension. *Final agency actions:* Section 4(f) determination; a Section 106 Memorandum of Agreement; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated July

9, 2012. *Supporting documentation:* Environmental Assessment, dated October 2011.

4. *Project name and location:* Hercules Intermodal Transit Center, Contra Costa County, CA. *Project sponsor:* City of Hercules, CA. *Project description:* The project proposes to construct an intermodal transit center, which would include a new passenger train station on the existing Capitol Corridor line, a transit bus terminal, access roadways, trails, and parking facilities. The transit center would be located on the southeastern shoreline of San Pablo Bay and would be designed to accommodate potential future ferry service. *Final agency actions:* No use of Section 4(f) resources; a Section 106 finding of no adverse effect; project-level air quality conformity; and Record of Decision (ROD), dated June 14, 2012. *Supporting documentation:* Final Environmental Impact Statement/Environmental Impact Report (Final EIS/EIR), dated April 2012.

5. *Project name and location:* Regional Connector Transit Corridor Project, Los Angeles County, CA. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority (LACMTA). *Project description:* The project will provide a 1.9-mile direct connection of light rail transit (LRT) service from the shared Metro Blue Line and Metro Exposition Line terminus at the 7th Street/Metro Center Station to the Metro Gold Line tracks near 1st and Alameda Streets with three new below grade stations at 2nd/Hope Street, 2nd/Broadway, and 1st/Central Avenue. *Final agency actions:* Determination of *de minimis* impact to one Section 4(f) resource; a Section 106 Memorandum of Agreement; project-level air quality conformity; and Record of Decision (ROD), dated June 29, 2012. *Supporting documentation:* Final Environmental Impact Statement/Environmental Impact Report (Final EIS/EIR), dated January 2012.

Issued on: July 18, 2012.

Lucy Garliauskas,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2012–17838 Filed 7–20–12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2009–0084; Notice 2]

American Honda Motor Co., Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of petition grant.

SUMMARY: American Honda Motor Co., Inc. (Honda), has determined that certain 2008 and 2009 model year Honda Civic Si model passenger cars when equipped with dealer accessory 18-inch diameter wheels do not fully comply with paragraph S4.2(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems.* Honda filed an appropriate report dated December 3, 2008, pursuant to 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Honda has petitioned 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. Notice of receipt of the petition was published, with a 30-day public comment period, on May 12, 2009 in the **Federal Register** (74 FR 22202). No comments were received. To view the petition, and supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/*. Then follow the online search instructions to locate docket number ''NHTSA–2009–0084.''

For further information on this decision contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366–0645, facsimile (202) 366–5930.

Vehicles involved: The exact number of vehicles involved is not known. However, a total of approximately 952 wheels, or 238 complete wheel sets, were sold to Honda dealerships by Honda between July, 2006 and September, 2008. These wheel sets were sold with a replacement tire pressure placard in accordance with FMVSS No. 110, indicating a tire inflation pressure of 250 kPa (36 PSI) for 215/40RZ18 tires having a load capacity rating of 85Y.

Noncompliance: Honda explains that the noncompliance occurred because the recommended electronic method of updating the TPMS inflation pressure settings to accommodate proper installation of the subject optional wheel sets incorrectly informed technicians that the adjustments had been completed successfully. The result is that the TPMS inflation pressure warning threshold remains at the standard setting for the original equipment 17-inch wheels of not less than 175 kPa (25 PSI) for the standard recommended tire pressure of 230 kPa (33 PSI). The minimum allowable TPMS threshold for the 18-inch accessory wheels should be 190 kPa (27 PSI), based on the recommended pressure of 250 kPa (36 PSI) as indicated on the replacement tire pressure placard. As a result, the low tire pressure warning telltale required by S4.2(a) will not illuminate at the 27 PSI minimum allowable TPMS threshold necessitated by installation of the dealer accessory wheels and tires.

Summary of Honda's Analysis and Arguments

Honda stated that it believes the noncompliance is inconsequential to motor vehicle safety because even at the lower TPMS threshold, adequate load capacity remains for the tires on the subject vehicles. Along with this statement Honda explained that the load capacity for each of the 215/40RZ18 85Y tires is 500 kilograms (1,100 lbs) at 230 kPa (33 PSI), calculated using the Japan Automotive Tyre Manufacturer's Association (JATMA) method, as recognized by NHTSA in FMVSS No. 110. The maximum allowable load according to the Gross Axle Weight Ratings (GAWR) for a 2008 or 2009 Civic Si is 477 kilograms (1,050 lbs) for each front tire and 425 kilograms (938 lbs) for each rear tire, well within the load capacity specified by JATMA.

Honda believes that the described noncompliance of its vehicles 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.

NHTSA's Decision

NHTSA's Analysis: For the agency's analysis of this petition the requirements of three associated Federal motor vehicle safety standards (FMVSS) were evaluated. First, as relates to FMVSS No. 110, we agree with Honda's statement that the 18-inch diameter tires have adequate load carrying capacity for the gross axle weight ratings assigned to any of the subject vehicles equipped with the dealer-installed tires. Two

corresponding requirements exist in FMVSS No. 110 for passenger cars, S4.2.1.1, which states ''[t]he vehicle maximum load on the tire shall not be greater than the applicable maximum load rating as marked on the sidewall of the tire'' and S4.3.4, requires that ''No inflation pressure other than the maximum permissible inflation pressure may be shown on the placard and, if any, tire inflation pressure label unless—(c) The tire load rating specified in a submission by an individual manufacturer, pursuant to S4.1.1(a) of § 571.139 or contained in one of the publications described in S4.1.1(b) of § 571.139, for the tire size at that inflation pressure is not less than the vehicle maximum load and the vehicle normal load on the tire for those vehicle loading conditions. We asked Honda for data for fully loaded vehicles. Honda provided the maximum weight on the front and rear axles with the vehicles loaded to capacity weight, and we calculated the weight per tire assuming an equal distribution between the tires:

Model	Front axle		Front axle/2		Rear axle		Rear axle/2	
	kg	lb	kg	lb	kg	lb	kg	lb
2-door	930	2050	465	1025	805	1774	402	887
4-door	950	2094	475	1047	830	1830	415	915

The 18-inch tires at the maximum load rating on the sidewall of the tires and at the recommended inflation pressures of 33 psi or 36 psi specified on the FMVSS No. 110 vehicle placards appear to meet the two FMVSS No. 110 requirements identified above.

We then turned our attention to FMVSS No. 138. FMVSS No. 138 does not require the TPMS telltale activation pressure to be set at a level such that the tires at that pressure will have a load rating appropriate for the vehicle when loaded to its capacity weight.[1] The standard requires the TPMS activation pressure to be the value at 25 percent below the manufacturer's recommended cold inflation pressure or 140kPa (from table 1 in FMVSS No. 138), whichever is higher. For the subject 18-inch tires, as discussed in the previous paragraph under the requirements of FMVSS No. 110, Honda could have specified a recommended cold inflation pressure of 33 psi or the 36 psi and either pressure would have been appropriate for the vehicles maximum load on the tires. Twenty-five percent below either of these recommended inflation pressures would have been appropriate under the requirements of FMVSS No. 138.

Finally, as relates to FMVSS No. 139, we examined the low inflation pressure performance test required by that standard. FMVSS No. 139 specifies a low inflation pressure performance test in which the tire is loaded to its maximum tire load capacity and inflated to only 140kPa (20 psi), less than the TPMS telltale activation pressure for the subject vehicles. Although NHTSA did not test a sample of the 18-inch tire to FMVSS No. 139, tire manufacturers are required to certify that the tires meet all applicable requirements of the standard, evidenced by labeling each tire with the letters ''DOT.''

NHTSA's Conclusion: Honda is asking the agency to determine that its noncompliance be deemed inconsequential to safety because it believes the 18-inch tires have adequate load capacity at the 36 psi recommended inflation pressure for these tires and at the lower 33 psi recommended inflation pressure for the 17-inch tire being replaced. NHTSA's analysis determined that Honda was correct in its assessment. Furthermore, FMVSS No. 138 does not include a minimum tire load rating margin requirement at the TPMS activation pressure thus a 25 percent below either pressure would be appropriate under the standard's requirements. NHTSA's analysis also noted that the subject tires must be certified to the low inflation pressure performance testing of FMVSS No. 139 which is conducted at an inflation pressure further below the subject tires TPMS activation inflation pressures. Finally, we conducted a search of the agency's Office of Defects Investigation's complaint data base and found no complaints associated directly with the incorrect TPMS activation inflation pressure thresholds for the 2008 and 2009 Honda Civic vehicles.

NHTSA's Decision: In consideration of the foregoing, NHTSA has determined that Honda has adequately demonstrated, under the specific facts and circumstances presented here, that the noncompliance with FMVSS No. 138 in the case of 2008 and 2009 2-door and 4-door Civic SI vehicles is inconsequential to motor vehicle safety. Accordingly, Honda's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at CFR 1.50 and 501.8).

Issued on: July 17, 2012.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2012–17892 Filed 7–20–12; 8:45 am]

BILLING CODE 4910–59–P

[1] See **Federal Register** Notice 70 FR 18138, 18146 (April 8, 2005) describing NHTSA's testing of a variety of Standard Load P-metric tires at 20 psi with 100 percent load, and no tires failed. ''This testing led the agency to conclude that warnings of less severe conditions [i.e., in Honda's case 25 psi] will give drivers sufficient time to check and re-inflate their vehicles' tires before the tires experience appreciable damage.''

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35642]

Twin Cities & Western Railroad Company, the Estate of Douglas M. Head, and the DMH Trust fbo Martha M. Head—Continuance in Control Exemption—Sisseton Milbank Railroad Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323–25 for Twin Cities & Western Railroad Company (TCW), a Class III rail carrier, and the Estate of Douglas M. Head (the Estate), a noncarrier, to continue in control of Sisseton Milbank Railroad Company (SMRC) upon SMRC's becoming a Class III rail carrier in a related transaction. That related transaction involves SMRC's acquisition from Sisseton Milbank Railroad, Inc. (SMRR) and SLA Property Management Limited Partnership (SLA) of their interests in, and operation of, approximately 37.1 miles of rail line situated in Grant and Roberts Counties, S.D. (the Line).[1] Because all the carriers involved are Class III carriers, the continuance-in-control exemption is not subject to labor

[1] *See Sisseton Milbank R.R.—Acquis. & Operation Exemption—SLA Prop. Mgmt. Ltd. P'ship,* FD 35641 (STB served June 29, 2012).

protective conditions. The Estate currently controls TCW, which, in turn, controls Minnesota Prairie Line, Inc. (MPL), also a Class III rail carrier. After the consummation of the acquisition transaction, SMRC and TCW will connect in or near Milbank, S.D.

In addition to TCW and the Estate, the DMH Trust fbo Martha M. Mead (Trust) also seeks an exemption for continuance of control of SMRC, apparently as part of the Estate's plan to distribute the stock of TCW to the Trust. Because the Trust does not currently control SMRC and will need to obtain Board authority in any event to acquire TCW, any rail carrier subsidiaries of TCW, or any other rail carrier, the request for a continuance-in-control exemption, as it applies to the Trust, is being denied.

DATES: This exemption will be effective on August 7, 2012. Petitions to stay must be filed by July 26, 2012. Petitions to reopen must be filed by August 1, 2012.

ADDRESSES: Send an original and 10 copies of all pleadings referring to Docket No. FD 35642, to: Surface Transportation Board, 395 E Street SW., Washington DC 20423–0001. In addition, send one copy of pleadings to Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street NW., Fifth Floor, Washington, DC 20036–1609.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision served July 18, 2012, which is available on our Web site at ''*WWW.STB.DOT.GOV*.''

Decided: July 13, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–17847 Filed 7–20–12; 8:45 am]

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Monday, July 23, 2012

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